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FEDERAL REGISTER

Vol. 87 Tuesday

No. 243 December 20, 2022

Pages 77705–77970

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Presidential Documents

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The President

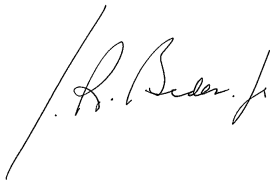
Memorandum of December 9, 2022

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $275 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, December 9, 2022

[FR Doc. 2022–27749
Filed 12–19–22; 8:45 am]
Billing code 4710–10–P

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS–2022–0016]

RIN 0583–AD77

Uniform Compliance Date for Food Labeling Regulations

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

ACTION: Final rule.

SUMMARY: FSIS is establishing January 1, 2026, as the uniform compliance date for new meat and poultry product labeling regulations that will be issued between January 1, 2023, and December 31, 2024. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.

DATES:

Effective date: This rule is effective December 20, 2022.

Compliance date: The uniform compliance date for new meat and poultry product labeling regulations that will be issued between January 1, 2023, and December 31, 2024, is January 1, 2026.

Comments due date: Comments on this final rule must be received on or before January 19, 2023.

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

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the online instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2022–0016. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: Contact Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Staff, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Telephone: (301) 504–0878.

SUPPLEMENTARY INFORMATION:

Background

On December 14, 2004, FSIS issued a final rule establishing January 1, 2008, as the uniform compliance date for new meat and poultry labeling regulations issued between January 1, 2005, and December 31, 2006 (69 FR 74405). The 2004 final rule also provided that the Agency would set uniform compliance dates for new labeling regulations in 2-year increments and periodically issue final rules announcing and requesting comments on those dates. Consistent with the 2004 final rule, the Agency has since published eight rules establishing the uniform compliance dates of January 1, 2010, January 1, 2012, January 1, 2014, January 1, 2016, January 1, 2018, January 1, 2020, January 1, 2022, and January 1, 2024 (72 FR 9651, 73 FR 75564, 75 FR 71344, 77 FR 76824, 79 FR 71007, 81 FR 91670, 83 FR 63052, and 85 FR 81339).

The Final Rule

The new uniform compliance date will apply only to final FSIS regulations that require changes in the labeling of meat and poultry products and that are published after January 1, 2023, and before December 31, 2024. For each final rule that requires changes in labeling, FSIS will specifically identify January 1, 2026, as the compliance date. All meat and poultry food products that are subject to labeling regulations issued between January 1, 2023, and December 31, 2024, will be required to comply with these regulations on products introduced into commerce on or after January 1, 2026. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2026, the Agency will determine an appropriate compliance date and will publish that compliance date in the rulemaking.

Two-year increments increase industry's ability to make orderly adjustments to new labeling requirements without exposing consumers to outdated labels. This approach allows meat and poultry producers to plan for the use of label inventories and to develop new labeling materials that meet the new requirements. It also serves to reduce the economic impact of changing labels on both producers and consumers.

In the March 5, 2007, final rule, FSIS received only four comments on the announced uniform compliance dates, all in support. In the March 5, 2007, final rule, FSIS determined that further rulemaking for uniform compliance dates for labeling requirements is unnecessary (72 FR 9651). The Agency received no comments on the 2007 final rule, the comments FSIS received on the 2012 final rule were outside the scope (77 FR 76824), and FSIS received no comments on the 2014 final rule (79 FR 71007) or the 2016 final rule (81 FR 91670). The Agency received four comments on the 2018 final rule, all in support. The Agency received four comments on the 2020 final rule; one was outside the scope of the rulemaking and three were in support of the rule. Consistent with its statement in 2007, FSIS finds that further rulemaking on this matter is unnecessary. However, FSIS is providing an opportunity for comment on the uniform compliance date established in this final rule.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

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 benefits, 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 final rule has been designated as a ''non-significant'' regulatory action under section 3(f) of E.O. 12866. Accordingly, the final rule has not been reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

This rule does not have a significant economic impact on a substantial number of small entities; consequently, a regulatory flexibility analysis is not required (5 U.S.C. 601–612).

Paperwork Reduction Act

FSIS has reviewed this rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and has determined that there is no new information collection related to this final rule. Under this final rule, the Agency is establishing January 1, 2026, as the uniform compliance date for new meat and poultry product labeling regulations that will be issued between January 1, 2023, and December 31, 2024. The relevant information collection or record keeping requirements are covered under OMB approval number 0583–0092, Marking, Labeling, and Packaging.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under E.O. 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule. However, parties may be required to exhaust their administrative remedies before challenging in court any specific agency action that is the subject of an appeal pursuant to this rule.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe requests consultation, FSIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

Additional Public Notification

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

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

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

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

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

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Paul Kiecker,

Administrator.

[FR Doc. 2022–27413 Filed 12–19–22; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1031; Airspace Docket No. 22–ANM–1]

RIN 2120–AA66

Establishment of Class E Airspace; Brookings Airport, Brookings, OR

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

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Brookings Airport, OR. This action will support the Airport's transition from visual flight rules (VFR) to instrument flight rules (IFR) at the airport.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would establish Class E airspace extending upward from 700 feet above the surface at Brookings Airport, OR, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for FAA–2022–1031 (87 FR 57160; September 19, 2022) to establish Class E airspace extending upward from 700 feet above the surface at Brookings Airport, OR. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received. One comment was in favor, and the other was not germane to the proposal.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Brookings Airport, OR. Class E airspace extending upward from 700 feet above the surface is intended to contain departing aircraft until reaching 1,200 feet above the surface, and arriving aircraft below 1,500 feet above the surface. The airspace is centered on the Brookings Airport reference point, with a 6.4-mile radius, excluding the portion northeast of the airport, as circling is not authorized there. A 6.4-mile radius is needed due to rising terrain from north to southeast of the airport, clockwise.

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.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory policies and procedures (44 FR 11034; 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

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

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM OR E5 Brookings, OR [New]

Brookings Airport, OR
(Lat. 42°04′26″ N, long. 124°17′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the airport beginning at the 127° bearing to the 340° bearing, thence to the point of beginning.

Issued in Des Moines, Washington, on December 13, 2022.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–27469 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0932; Airspace Docket No. 21–AEA–22]

RIN 2120–AA66

Amendment and Establishment of Area Navigation (RNAV) Routes; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published by the FAA in the **Federal Register** on December 7, 2022, that, in part, amends navigation (RNAV) routes T–315, and T–325. In the amended route T–315, the final rule identified the DVANY, WP, CT, route point as a waypoint (WP) in error. In the amended T–325, the final rule identified the START, IL, route point and the DEBOW, WI, as WPs in error. This action makes editorial corrections to the DVANY, CT, START, IL, and DEBOW, WI, WPs to change them to be reflected as Fixes. This correction is necessary to match the FAA National Airspace System Resource (NASR) database information.

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

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

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2022–0932, in the **Federal Register** (87 FR 74962; December 7, 2022) amending, in part, RNAV routes T–315 and T–325. Subsequent to the publication, the FAA determined that the DVANY, CT, START, IL, and DEBOW, WI, route points were inadvertently identified as WPs, in error. The correct reference for the three points is a Fix. This rule corrects the errors by changing the reference of the DVANY, CT, WP to the DVANY, CT, Fix; the START, IL, WP to the START, IL, Fix; and the DEBOW, WI, WP to the DEBOW, WI, Fix.

These are editorial changes only to match the FAA NASR database information and do not alter the alignment of routes T–315 or T–325.

United States RNAV T-routes are published in paragraph 6011, and RNAV Q-routes are published in paragraph 2006, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document will be published subsequently in FAA Order JO 7400.11.

Correction to Final Rule

The references to the DEVANY, CT, START, IL, and DEBOW, WI, WPs, as published in the **Federal Register** of December 7, 2022 (87 FR 74962), FR Doc. 2022–26489, is corrected as follows:

On page 74964, correct the table for T–315 JARLO, WV to Burlington, VT (BTV) [Amended] to read:

T–315 JARLO, WV to Burlington, VT (BTV) [Amended]

JARLO, WV	WP	(Lat. 38°20′58.85″ N, long. 081°46′11.68″ W)
SHANE, WV	WP	(Lat. 37°58′31.15″ N, long. 080°48′24.34″ W)
DBRAH, VA	WP	(Lat. 37°20′34.14″ N, long. 080°04′10.75″ W)
SPNKS, VA	WP	(Lat. 37°17′21.31″ N, long. 079°33′17.14″ W)
KONRD, VA	WP	(Lat. 37°20′39.83″ N, long. 079°01′33.27″ W)
CRUMB, VA	FIX	(Lat. 37°28′09.44″ N, long. 078°08′27.69″ W)
Flat Rock, VA (FAK)	VORTAC	(Lat. 37°31′42.63″ N, long. 077°49′41.59″ W)
WAVES, VA	WP	(Lat. 37°35′13.54″ N, long. 077°26′52.03″ W)
TAPPA, VA	FIX	(Lat. 37°58′12.66″ N, long. 076°50′40.62″ W)
COLIN, VA	FIX	(Lat. 38°05′59.23″ N, long. 076°39′50.85″ W)
SHLBK, MD	WP	(Lat. 38°20′16.21″ N, long. 076°26′10.51″ W)
PRNCZ, MD	WP	(Lat. 38°37′38.10″ N, long. 076°05′08.20″ W)
CHOPS, MD	FIX	(Lat. 38°45′41.81″ N, long. 075°57′36.18″ W)
COSHA, DE	WP	(Lat. 38°57′57.57″ N, long. 075°30′51.59″ W)
Atlantic City, NJ (ACY)	VORTAC	(Lat. 39°27′21.15″ N, long. 074°34′34.73″ W)
PANZE, NJ	FIX	(Lat. 39°40′33.58″ N, long. 074°10′05.45″ W)
DIXIE, NJ	FIX	(Lat. 40°05′57.72″ N, long. 074°09′52.17″ W)
Kennedy, NY (JFK)	VOR/DME	(Lat. 40°37′58.40″ N, long. 073°46′17.00″ W)
KEEPM, NY	FIX	(Lat. 40°50′14.77″ N, long. 073°32′42.58″ W)
TRANZ, NY	FIX	(Lat. 40°51′31.95″ N, long. 073°22′30.80″ W)
PUGGS, NY	FIX	(Lat. 40°56′27.65″ N, long. 073°13′47.73″ W)
EEGOR, CT	WP	(Lat. 41°09′38.94″ N, long. 073°07′27.66″ W)
Hartford, CT (HFD)	VOR/DME	(Lat. 41°38′27.98″ N, long. 072°32′50.70″ W)
DVANY, CT	FIX	(Lat. 41°51′44.56″ N, long. 072°18′11.25″ W)
Gardner, MA (GDM)	VOR/DME	(Lat. 42°32′45.31″ N, long. 072°03′29.48″ W)
KEYNN, NH	WP	(Lat. 42°47′39.99″ N, long. 072°17′30.35″ W)
EBERT, VT	FIX	(Lat. 43°32′58.08″ N, long. 072°45′42.45″ W)
Burlington, VT (BTV)	VOR/DME	(Lat. 44°23′49.58″ N, long. 073°10′57.48″ W)

* * * * *

On page 74964, correct the table for T–325 RAMRD, KY to Oshkosh, WI (OSH) [Amended] to read:

T–325 RAMRD, KY to Oshkosh, WI (OSH) [Amended]

RAMRD, KY	WP	(Lat. 36°55′44.04″ N, long. 086°26′36.58″ W)
RENRO, KY	WP	(Lat. 37°28′50.53″ N, long. 086°39′19.25″ W)
APALO, IN	FIX	(Lat. 38°00′20.59″ N, long. 086°51′35.27″ W)
JIBKA, IN	WP	(Lat. 39°30′08.93″ N, long. 087°16′26.74″ W)
SMARS, IL	WP	(Lat. 41°07′38.18″ N, long. 088°51′38.22″ W)
TRENM, IL	WP	(Lat. 41°17′24.93″ N, long. 089°00′27.53″ W)
START, IL	FIX	(Lat. 41°45′24.83″ N, long. 089°00′21.81″ W)
GRIFT, IL	WP	(Lat. 42°17′28.14″ N, long. 088°53′41.42″ W)
DEBOW, WI	FIX	(Lat. 42°44′08.30″ N, long. 088°50′48.92″ W)
LUNGS, WI	WP	(Lat. 43°02′43.66″ N, long. 088°56′54.86″ W)
HOMNY, WI	WP	(Lat. 43°31′02.22″ N, long. 088°39′40.15″ W)
Oshkosh, WI (OSH)	VORTAC	(Lat. 43°59′25.56″ N, long. 088°33′21.36″ W)

* * * * *

Issued in Washington, DC, on December 15, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–27545 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 599

Illicit Drug Trade Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement a December 15, 2021 illicit drug trade-related Executive order. OFAC intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions.

DATES: This rule is effective December 20, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On December 15, 2021, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA) and the Fentanyl Sanctions Act (21 U.S.C. 2301 *et seq.*), issued Executive Order (E.O.) 14059, ''Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade'' (86 FR 71549, December 17, 2021).

In E.O. 14059, the President found that the trafficking into the United States of illicit drugs, including fentanyl and other synthetic opioids, is causing the deaths of tens of thousands of Americans annually, as well as countless more non-fatal overdoses with their own tragic human toll. Drug cartels, transnational criminal organizations, and their facilitators are the primary sources of illicit drugs and precursor chemicals that fuel the current opioid epidemic, as well as drug-related violence that harms communities. The President found that international drug trafficking—including the illicit production, global sale, and widespread distribution of illegal drugs; the rise of extremely potent drugs such as fentanyl and other synthetic opioids; as well as the growing role of internet-based drug sales—constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, which requires the United States to modernize and update its response to drug trafficking, and declared a national emergency to deal with that threat.

OFAC is issuing the Illicit Drug Trade Sanctions Regulations, 31 CFR part 599 (the ''Regulations''), to implement E.O. 14059, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 14059. A copy of E.O. 14059 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 599 with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 599

Administrative practice and procedure, Banks, Banking, Blocking of assets, Foreign trade, Illicit drugs, Penalties, Prohibitions on certain credit, Investments, Loans, Purchases, or other transactions, Reporting and recordkeeping requirements, Sanctions, Services.

■ For the reasons set forth in the preamble, OFAC adds part 599 to 31 CFR chapter V to read as follows:

PART 599—ILLICIT DRUG TRADE SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
599.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

599.201 Prohibited transactions.
599.202 Effect of transfers violating the provisions of this part.
599.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
599.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.
599.205 Exempt transactions.

Subpart C—General Definitions

599.300 Applicability of definitions.
599.301 Blocked account; blocked property.
599.302 Effective date.
599.303 Entity.
599.304 Financial, material, or technological support.
599.305 Financial institution.
599.306 Foreign person.
599.307 [Reserved]
599.308 Interest.
599.309 Knowingly; knows.
599.310 Licenses; general and specific.
599.311 Means of production.
599.312 OFAC.
599.313 Person.
599.314 Proliferation of illicit drugs.
599.315 Property; property interest.
599.316 Transfer.
599.317 United States.
599.318 United States person; U.S. person.
599.319 U.S. financial institution.

Subpart D—Interpretations

599.401 [Reserved]
599.402 Effect of amendment.
599.403 Termination and acquisition of an interest in blocked property.
599.404 Transactions ordinarily incident to a licensed transaction.
599.405 Setoffs prohibited.
599.406 Entities owned by one or more persons whose property and interests in property are blocked.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

599.501 General and specific licensing procedures.
599.502 Effect of license or other authorization.
599.503 Exclusion from licenses.
599.504 Payments and transfers to blocked accounts in U.S. financial institutions.
599.505 Entries in certain accounts for normal service charges.
599.506 Provision of certain legal services.
599.507 Payments for legal services from funds originating outside the United States.
599.508 Emergency medical services.
599.509 Official business of the United States Government.
599.510 Official business of certain international organizations and entities.
599.511 Certain transactions for maintenance, employment, and related banking services for blocked individuals physically located in the United States.

Subpart F—Reports

599.601 Records and reports.

Subpart G—Penalties and Findings of Violation

599.701 Penalties and Findings of Violation.

Subpart H—Procedures

599.801 Procedures.
599.802 Delegation of certain authorities of the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

599.901 Paperwork Reduction Act notice.
Appendix A to Part 599—Executive Order 14059 of December 15, 2021

Authority: 3 U.S.C. 301; 21 U.S.C. 2301 *et seq.;* 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 14059, 86 FR 71549, December 15, 2021.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 599.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note 1 to § 599.101. This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions.

Subpart B—Prohibitions

§ 599.201 Prohibited transactions.

All transactions prohibited pursuant to E.O. 14059 of December 15, 2021, or any further Executive orders issued pursuant to the national emergency declared in E.O. 14059 are prohibited pursuant to this part.

Note 1 to § 599.201. The names of persons designated or identified as blocked pursuant to this section are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) using the following identifier formulation: ''[ILLICIT–DRUGS–E.O.]-E.O.[E.O. number pursuant to which the person's property and interests in property are blocked]].'' The SDN List is accessible through the following page on OFAC's website: *www.treas.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 599.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 599.201. The International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List using the following identifier formulation: ''[BPI-[ILLICIT–DRUGS–E.O.]-E.O.[E.O. number pursuant to which the person's property and interests in property are blocked pending investigation]].''

Note 3 to § 599.201. The names of persons on whom non-blocking sanctions implemented by the Department of the Treasury are imposed pursuant to this section will be incorporated into a data file containing OFAC's Consolidated Non-SDN data and are provided in a human readable format on OFAC's Non-SDN Menu-Based Sanctions List (NS–MBS List) on the following page on OFAC's website: *www.treas.gov/consolidated-sanctions-list-non-sdn-lists.* These listings are published in the **Federal Register** and include specific information on the non-blocking sanctions imposed on such persons. However, for any persons on whom blocking and non-blocking sanctions are imposed pursuant to this section, such persons' names are instead incorporated into OFAC's SDN List using the identifier ''[ILLICIT–DRUGS–E.O.-E.O.[E.O. number pursuant to which the person's property and interests in property are blocked]].''

Note 4 to § 599.201. Section 501.806 of this chapter describes the procedures to be followed by persons seeking the unblocking of funds that they believe were blocked due to mistaken identity. Section 501.807 of this chapter describes the procedures to be followed by persons seeking administrative

reconsideration of their status as persons whose property and interests in property are blocked, or their inclusion on the NS–MBS List for the imposition of non-blocking sanctions, pursuant to this section.

§ 599.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 599.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interest in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 599.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

(e) The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(f) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 599.201.

§ 599.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, blocked pursuant to § 599.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For the purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For the purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For the purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become blocked pursuant to § 599.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become blocked pursuant to § 599.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds blocked pursuant to § 599.201 may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 599.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 599.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of tangible property blocked pursuant to § 599.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 599.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 599.205 Exempt transactions.

Personal communications. The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

Subpart C—General Definitions

§ 599.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 599.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 599.201 held in the name of a person whose property and interests in property are blocked pursuant to § 599.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 599.301. *See* § 599.406 concerning the status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, by one or more persons whose property and interests in property are blocked pursuant to § 599.201.

§ 599.302 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part, and with respect to a person whose property and interests in property are blocked pursuant to § 599.201 or on whom other sanctions are imposed, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked or that other sanctions are imposed on such person.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property or imposition of other sanctions is published in the **Federal Register**.

§ 599.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 599.304 Financial, material, or technological support.

The term *financial, material, or technological support* means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this section means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 599.305 Financial institution.

The term *financial institution* includes a depository institution (as defined in section 3(c)(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(l))), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7))); a credit union; a securities firm, including a broker or dealer; an insurance company, including an agency or underwriter; and any other company that provides financial services.

§ 599.306 Foreign person.

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States, provided such individual does not reside in the United States) or any entity not organized under the laws of the United States.

§ 599.307 [Reserved]

§ 599.308 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 599.309 Knowingly; knows.

The term *knowingly* or *knows* with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§ 599.310 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: *www.treas.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: *www.treas.gov/ofac.*

Note 1 to § 599.310. *See* § 501.801 of this chapter on licensing procedures.

§ 599.311 Means of production.

The term *means of production* includes any activities or transactions involving any equipment, chemical, product, or material that may be used, directly or indirectly, in the manufacture of illicit drugs or precursor chemicals.

§ 599.312 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 599.313 Person.

The term *person* means an individual or entity.

§ 599.314 Proliferation of illicit drugs.

The term *proliferation of illicit drugs* means any illicit activity to produce, manufacture, distribute, sell, or knowingly finance or transport: narcotic drugs, controlled substances, listed chemicals, or controlled substance analogues, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

§ 599.315 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever,

contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 599.316 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 599.317 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 599.318 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, lawful permanent resident, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 599.319 United States financial institution.

The term *United States financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses, operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 599.401 [Reserved]

§ 599.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 599.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 599.201, such property shall no longer be deemed to be property blocked pursuant to § 599.201, unless there exists in the property another interest that is blocked pursuant to § 599.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 599.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 599.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 599.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 599.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. financial institution or other U.S. person, is a prohibited transfer under § 599.201 if effected after the effective date.

§ 599.406 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 599.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 599.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 599.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Counter Narcotics Trafficking sanctions page on OFAC's website: *www.treas.gov/ofac.*

§ 599.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

§ 599.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 599.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 599.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note 1 to § 599.504. *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 599.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 599.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 599.506 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 599.201 is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 599.507, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 599.201, not otherwise authorized in this part, requires the issuance of a specific license.

(c) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by this section. Additionally, U.S. persons who provide services authorized by this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. *See* § 599.404.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process

purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 599.201 is prohibited unless licensed pursuant to this part.

Note 1 to § 599.506. Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available.

§ 599.507 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 599.506(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 599.201 is authorized from funds originating outside the United States, provided that the funds do not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 599.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

(2) Nothing in paragraph (a) of this section authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 599.201, any other part of this chapter, or any Executive order or statute has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) *Email (preferred method): OFACReport@treasury.gov;* or

(ii) *U.S. mail:* OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

§ 599.508 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are prohibited by this part are authorized.

§ 599.509 Official business of the United States Government.

All transactions prohibited by this part that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof are authorized.

§ 599.510 Official business of certain international organizations and entities.

(a) All transactions prohibited by this part that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:

(1) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations;

(2) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA);

(3) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and

(4) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

§ 599.511 Certain transactions for maintenance, employment, and related banking services for blocked individuals physically located in the United States.

(a) Individuals whose property and interests in property are blocked pursuant to § 599.201 who are in U.S. custody or incarcerated in jails, prisons, or similar facilities in the United States (''covered individuals''), are authorized to engage in the following transactions within the United States:

(1) Purchasing, making payment for, and receiving goods and services for their maintenance and the maintenance of their spouse or persons who would ordinarily share a common dwelling as a family with them, located in the United States, including food, clothing, housing, medical care, education, transportation, insurance, and utilities;

(2) Obtaining or continuing employment and engaging in all transactions ordinarily incident to such employment, including receipt of salary and benefits;

(3) Establishing accounts with a U.S. financial institution, or a commissary-type account with a prison, jail, or other similar facility, located in the United States, for use in connection with the transactions authorized in paragraphs (a)(1) and (a)(2) of this section; and

(4) Receiving and making funds transfers in furtherance of the authorized transactions set forth in paragraphs (a)(1) through (3) of this section from unblocked funds originating within or outside the United States, provided that any funds received may not originate from any individual or entity whose property or interests in property are blocked pursuant to any part of this chapter or any Executive order or statute, other than the covered individual or his or her spouse or persons who would ordinarily share a common dwelling as a family with the covered individual.

(b) Any financial institution that has established any account pursuant to paragraph (a)(3) of this section, excluding commissary-type accounts with prisons, jails, or other similar facilities, must provide the name and address of the financial institution, the name of the account holder, and the account number to OFAC within 10 business days of the establishment of the account.

(c) This general license does not authorize any funds transfers to any location outside the United States.

Note 1 to paragraph (c). A covered individual has an interest in any funds remaining in a commissary-type account with a prison, jail, or other similar facility established pursuant to paragraph (a)(3) of this section after the covered individual is released from custody or incarceration.

Note 2 to paragraph (c). In the case of individuals who are in custody or incarcerated, funds transfers must be authorized by and consistent with the conditions, protocols, and other requirements established by the jail, prison, or other facility.

Note 3 to § 599.511. The authorization in this section only applies to laws and regulations administered by OFAC and

should not be interpreted to excuse compliance with other applicable laws or regulations, including the immigration laws of the United States.

Subpart F—Reports

§ 599.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Findings of Violation

§ 599.701 Penalties and Findings of Violation.

(a) The penalties available under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), as adjusted annually pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note) or, in the case of criminal violations, as adjusted pursuant to 18 U.S.C. 3571, are applicable to violations of the provisions of this part.

(b) OFAC has the authority, pursuant to IEEPA, to issue Pre-Penalty Notices, Penalty Notices, and Findings of Violation; impose monetary penalties; engage in settlement discussions and enter into settlements; refer matters to the United States Department of Justice for administrative collection; and, in appropriate circumstances, refer matters to appropriate law enforcement agencies for criminal investigation and/or prosecution. For more information, see appendix A to part 501 of this chapter, which provides a general framework for the enforcement of all economic sanctions programs administered by OFAC, including enforcement-related definitions, types of responses to apparent violations, general factors affecting administrative actions, civil penalties for failure to comply with a requirement to furnish information or keep records, and other general civil penalties information.

Subpart H—Procedures

§ 599.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 599.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to E.O. 14059 of December 15, 2021, and any further Executive orders issued pursuant to the national emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 599.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Appendix A to Part 599—Executive Order 14059 of December 15, 2021

Executive Order 14059 of December 15, 2021

Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Fentanyl Sanctions Act (21 U.S.C. 2301 *et seq.*) (FSA), sections 212(f) and 215(a) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f) and 1185(a)), and section 301 of title 3, United States Code,

I, JOSEPH R. BIDEN JR., President of the United States of America, find that the trafficking into the United States of illicit drugs, including fentanyl and other synthetic opioids, is causing the deaths of tens of thousands of Americans annually, as well as countless more non-fatal overdoses with their own tragic human toll. Drug cartels, transnational criminal organizations, and their facilitators are the primary sources of illicit drugs and precursor chemicals that fuel the current opioid epidemic, as well as drug-related violence that harms our communities. I find that international drug trafficking—including the illicit production, global sale, and widespread distribution of illegal drugs; the rise of extremely potent drugs such as fentanyl and other synthetic opioids; as well as the growing role of internet-based drug sales—constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. This serious threat requires our country to modernize and update our response to drug trafficking. I hereby declare a national emergency to deal with that threat.

Accordingly, I hereby order:

Section 1. (a) The Secretary of the Treasury is authorized to impose any of the sanctions described in section 2 of this order on any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security:

(i) to have 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; or

(ii) to have knowingly received any property or interest in property that the foreign person knows:

(A) constitutes or is derived from proceeds of 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; or

(B) was used or intended to be used to commit or to facilitate 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.

(b) The Secretary of the Treasury is authorized to impose any of the sanctions described in section 2 of this order on any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security:

(i) to have provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of:

(A) any activity or transaction described in subsection (a)(i) of this section; or

(B) any sanctioned person;

(ii) to be or have been a leader or official of any sanctioned person or of any foreign person that has engaged in any activity or transaction described in subsection (a)(i) of this section; or

(iii) to be owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, any sanctioned person.

(c) The Secretary of the Treasury is authorized to impose any of the sanctions described in section 2 of this order consistent with the requirements of section 7212 of the FSA (21 U.S.C. 2312) on any foreign person determined by the President, or by the Secretary of the Treasury pursuant to authority delegated by the President and in accordance with the terms of such delegation, to be subject to sanctions pursuant to section 7212 of the FSA.

Sec. 2. When the Secretary of the Treasury, in accordance with the terms of section 1 of this order, has determined that a foreign person meets any of the criteria in section 1(a)–(c) of this order, the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, is authorized to select one or more of the

sanctions set forth in subsections (a)(i)–(vi) of this section to impose on that foreign person.

(a) The Secretary of the Treasury shall take the following actions as necessary to implement the selected sanctions:

(i) block all property and interests in property of the sanctioned person that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, and provide that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in;

(ii) prohibit any transfers of credit or payments between financial institutions, or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the sanctioned person;

(iii) prohibit any United States financial institution from making loans or providing credit to the sanctioned person;

(iv) prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the sanctioned person has any interest;

(v) prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of the sanctioned person; or

(vi) impose on the principal executive officer or officers of the sanctioned person, or on persons performing similar functions and with similar authorities as such officer or officers, any of the sanctions described in subsections (a)(i)–(v) of this section that are applicable.

(b) The heads of the relevant executive departments and agencies, in consultation with the Secretary of the Treasury, shall take the following actions as necessary and appropriate to implement the sanctions selected by the Secretary of the Treasury:

(i) with respect to a sanctioned person that is a financial institution:

(A) the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York shall not designate, and shall rescind any prior designation of, the sanctioned person as a primary dealer in United States Government debt instruments; and

(B) the sanctioned person shall not serve as an agent of the United States Government or serve as a repository for United States Government funds;

(ii) actions required to ensure that executive departments and agencies shall not procure, or enter into a contract for the procurement of, any goods or services from the sanctioned person;

(iii) actions required to suspend entry into the United States of any noncitizen whom the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, determines is a leader, official, senior executive officer, or director of, or a shareholder with a controlling interest in, the sanctioned person; or

(iv) actions required to impose on the principal executive officer or officers of the sanctioned person, or on persons performing similar functions and with similar authorities as such officer or officers, any of the sanctions described in subsections (b)(i)–(iii) of this section that are applicable.

Sec. 3. The prohibitions in section 2 of this order apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

Sec. 4. (a) The unrestricted immigrant and nonimmigrant entry into the United States of noncitizens determined to meet any of the criteria in section l(a)–(c) of this order, and for whom the sanctions described in section 2(a)(i) or 2(b)(iii) of this order have been selected, would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended, except when the Secretary of State or the Secretary of Homeland Security, as appropriate, determines that the person's entry would not be contrary to the interests of the United States, including when the Secretary of State or the Secretary of Homeland Security, as appropriate, so determines, based on a recommendation of the Attorney General, that the person's entry would further important United States law enforcement objectives.

(b) The Secretary of State shall implement this order as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish.

(c) The Secretary of Homeland Security shall implement this order as it applies to the entry of noncitizens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

(d) Such persons shall be treated by this section in the same manner as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

Sec. 5. The prohibitions in section 2(a)(i) of this order include:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 6. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 7. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 2(a) of this order.

Sec. 8. For the purpose of this order:

(a) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(b) the term ''financial institution'' includes a depository institution (as defined in section 3(c)(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(l))), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7))); a credit union; a securities firm, including a broker or dealer; an insurance company, including an agency or underwriter; and any other company that provides financial services;

(c) the term ''foreign person'' means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States, provided such individual does not reside in the United States) or any entity not organized under the laws of the United States;

(d) the term ''knowingly'' or ''knows'' with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result;

(e) the phrase ''means of production'' includes any activities or transactions involving any equipment, chemical, product, or material that may be used, directly or indirectly, in the manufacture of illicit drugs or precursor chemicals;

(f) the term ''noncitizen'' means any person who is not a citizen or noncitizen national of the United States;

(g) the term ''person'' means an individual or entity;

(h) the term ''proliferation of illicit drugs'' means any illicit activity to produce, manufacture, distribute, sell, or knowingly finance or transport: narcotic drugs, controlled substances, listed chemicals, or controlled substance analogues, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(i) the term ''sanctioned person'' means any person sanctioned pursuant to this order;

(j) the term ''United States financial institution'' means a financial institution (including its foreign branches) organized under the laws of the United States or of any jurisdiction within the United States or located in the United States; and

(k) the term ''United States person'' means any United States citizen, lawful permanent resident, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 9. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for those measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, the

Attorney General, and the Secretary of Homeland Security, is authorized to take such actions, including promulgating rules and regulations, and to employ all powers granted to the President by the FSA or IEEPA as may be necessary to implement this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All executive departments and agencies shall take all appropriate measures within their authority to implement the provisions of this order.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 12. (a) 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.

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

(c) 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.

JOSEPH R. BIDEN JR.
THE WHITE HOUSE,
December 15, 2021.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2022–27466 Filed 12–19–22; 8:45 am]

BILLING CODE 4810–AL–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2022–0740; FRL–10172–01–R10]

Air Plan Approval; OR; Updates to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the regulatory materials incorporated by reference into the Oregon State Implementation Plan (SIP). The regulations addressed in this action were previously submitted by the Oregon Department of Environmental Quality (ODEQ) and approved by the EPA in prior rulemakings. In this action, the EPA is also notifying the public of corrections to typographical errors, and minor formatting changes to the incorporation by reference tables. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration and the EPA Regional Office.

DATES: This action is effective December 20, 2022.

ADDRESSES: SIP materials which are incorporated by reference into the Code of Federal Regulations (CFR) at 40 CFR part 52 are available for inspection at the following locations: online at *www.regulations.gov* in the docket for this action, by appointment at the EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, and by appointment at the National Archives and Records Administration (NARA). For information on the availability of this material at the EPA Regional Office, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. For information on the availability of this material at NARA, NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Christi Duboiski, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, (360) 753–9081, or *duboiski.christi@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document revised by the State as necessary to address its unique air pollution problems in a manner consistent with requirements of section 110 of the Clean Air Act (CAA), 42 U.S.C. 7410. Therefore, from time to time, the EPA must take action on SIP revisions containing new and/or revised regulations, approving and incorporating them by reference into the SIP. On May 22, 1997, the EPA revised the procedures for incorporating by reference federally approved SIP provisions, as a result of consultations between the EPA and the Office of the Federal Register (OFR) (62 FR 27968). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format is discussed in further detail in the May 22, 1997, **Federal Register** document. On December 10, 2013, the EPA published a **Federal Register** document beginning the new IBR procedure for Oregon (78 FR 74012). The EPA subsequently published an update to the IBR materials for Oregon on April 10, 2019 (84 FR 14272). Since then, the EPA has approved and incorporated by reference several provisions of the Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), Lane Regional Clean Air Protection Agency (LRAPA) rules, and City and County Ordinances into the Oregon SIP. The following **Federal Register** documents contain the provisions that EPA approved and incorporated by reference: 84 FR 26347, June 6, 2019; 84 FR 58324, October 31, 2019; 84 FR 58327, October 31, 2019; 85 FR 35198, June 9, 2020; 86 FR 27976, May 25, 2021; 86 FR 43954, August 11, 2021; 87 FR 29046, May 12, 2022; 87 FR 41256, July 12, 2022; 87 FR 51262, August 22, 2022; and 87 FR 51265, August 22, 2022.

II. EPA Action

In this action, the EPA is announcing the update to the Oregon materials approved and incorporated by reference into the Oregon SIP at 40 CFR 52.1970(c) as of August 31, 2022. The EPA is also correcting minor typographical errors, including correcting the federal citation for the June 9, 2020 approval of OAR 340–236–0010 Definitions (definitions for emission standards for specific industries) from ''85 FR 33198'' to ''85 FR 35198''; correcting typographical errors to entry OAR 340–256–0330 to reflect corrected information and finally correcting Table 4, footnote 1 to replace the word ''Titles'' with the word ''Title''. Lastly, in subsection 52.1970 (e), the EPA is revising the heading for Table 5 to better reflect the content of the table.

The EPA has determined that this action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA), which, upon finding ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions, which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes

incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is updating its compilation of State and local rules included in the Oregon SIP by finalizing the incorporation by reference of previously EPA-approved regulations promulgated by Oregon and federally approved prior to August 31, 2022. These include new and revised provisions as contained in the **Federal Register** documents listed in section I of this preamble. Lastly, the EPA is also correcting typographical errors in 52.1970(c) as described in section II of this preamble. The EPA has made, and will continue to make, these materials 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).

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Alaska regulations described in sections I and II of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

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

The EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Oregon SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Oregon.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 13, 2022.

Casey Sixkiller,

Regional Administrator, Region 10.

Part 52 of chapter I, title 40 of the Code of Federal Regulations, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart MM—Oregon

■ 2. In § 52.1970:
■ a. Revise paragraph (b);
■ b. In paragraph (c):
■ i. Amend Table 2, by revising the entry for ''236–0010 Definitions'';
■ ii. Amend Table 2, by revising the entry for ''256–0330 Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program'';
■ iii. Amend Table 4, by revising Footnote ''1''; and
■ c. In paragraph (e), revise the heading for Table 5.

The revisions read as follows:

§ 52.1970 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section with an EPA approval date prior to August 31, 2022, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section, with the EPA approval dates on or after August 31, 2022, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 10 certifies that the rules and regulations provided by the EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved

as part of the State Implementation Plan as of August 31, 2022.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region 10 Office at 1200 Sixth Ave., Suite 155, Seattle, WA 98101; or 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.*

(c) * * *

TABLE 2—EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR) [1]

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
236–0010	Definitions	7/19/2019	6/9/2020, 85 FR 35198	
*	*	*	*	*
256–0330	Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program.	10/14/1999	11/22/2004; 69 FR 67819	
*	*	*	*	*

* * * * *

TABLE 4—EPA APPROVED LANE REGIONAL AIR PROTECTION AGENCY (LRAPA) RULES FOR LANE COUNTY, OREGON [1]

*	*	*	*	*	*	*

[1] The EPA approves the requirements in Table 4 of this paragraph (c) only to the extent they apply to (1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and (2) any additional pollutants that are required to be regulated under Part C of Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

* * * * *

(e) * * *

TABLE 5—STATE OF OREGON AIR QUALITY CONTROL PROGRAM—NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

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[FR Doc. 2022–27490 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 600

[CMS–2441–F]

RIN 0938–AU89

Basic Health Program; Federal Funding Methodology for Program Year 2023 and Changes to the Basic Health Program Payment Notice Process

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This rule finalizes the methodology and data sources necessary to determine Federal payment amounts to be made for program year 2023 to States that elect to establish a Basic Health Program under the Patient Protection and Affordable Care Act to offer health benefits coverage to low-income individuals otherwise eligible to purchase coverage through Health Insurance Exchanges.

DATES: This amendments in this rule are effective January 1, 2023. The methodology and data sources announced in this rule are effective on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher Truffer, (410) 786–1264; or Cassandra Lagorio, (410) 786–4554.

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview of the Basic Health Program

Section 1331 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted March 30, 2010) (collectively referred to as the Affordable Care Act or ACA), provides States with an option to establish a Basic Health Program (BHP). In the States that elect to operate a BHP, the BHP makes affordable health benefits coverage available for individuals under age 65 with household incomes between 133 percent and 200 percent of the Federal poverty level (FPL) who are not otherwise eligible for Medicaid, the Children's Health Insurance Program (CHIP), or affordable employer-sponsored coverage, or for individuals whose income is below these levels but are lawfully present non-citizens ineligible for Medicaid. For those States that have expanded Medicaid coverage under section 1902(a)(10)(A)(i)(VIII) of the Social Security Act (the Act), the lower income threshold for BHP eligibility is effectively 138 percent due to the application of a required 5 percent income disregard in determining the upper limits of Medicaid income eligibility (section 1902(e)(14)(I) of the Act).

A BHP is another option for States to provide affordable health benefits to individuals with incomes in the ranges described above. States may find a BHP a useful option for several reasons, including the ability to potentially coordinate standard health plans in the BHP with their Medicaid managed care plans, or to potentially reduce the costs to individuals by lowering premiums or cost-sharing requirements.

Federal funding for a BHP under section 1331(d)(3)(A) of the ACA is based on the amount of the Federal premium tax credit (PTC) allowed and payments to cover required cost-sharing reductions (CSRs) that would have been provided for the fiscal year to eligible individuals enrolled in BHP standard health plans in the State if such eligible individuals were allowed to enroll in a qualified health plan (QHP) through Health Insurance Exchanges (Exchanges). These funds are paid to trusts established by the States and dedicated to the BHP, and the States then administer the payments to standard health plans within the BHP.

In the March 12, 2014, **Federal Register** (79 FR 14111), we published a final rule entitled ''Basic Health Program: State Administration of Basic Health Programs; Eligibility and Enrollment in Standard Health Plans; Essential Health Benefits in Standard Health Plans; Performance Standards for Basic Health Programs; Premium and Cost Sharing for Basic Health Programs; Federal Funding Process; Trust Fund and Financial Integrity'' (hereinafter referred to as the BHP final rule), implementing section 1331 of the ACA, which governs the establishment of BHPs. The BHP final rule established the standards for State and Federal administration of BHPs, including provisions regarding eligibility and enrollment, benefits, cost-sharing requirements and oversight activities. While the BHP final rule codified the overall statutory requirements and basic procedural framework for the funding methodology, it does not contain the specific information necessary to determine Federal payments. We anticipated that the methodology would be based on data and assumptions that would reflect ongoing operations and experience of BHPs, as well as the operation of the Exchanges. For this reason, the BHP final rule indicated that the development and publication of the funding methodology, including any data sources, would be addressed in a separate annual BHP Payment Notice.

In the BHP final rule, we specified that the BHP Payment Notice process would include the annual publication of both a proposed and final BHP payment methodology. The proposed BHP Payment Notice would be published in the **Federal Register** each October, 2 years prior to the applicable program year, and would describe the proposed funding methodology for the relevant BHP year,[1] including how the Secretary of the Department of Health and Human Services (the Secretary) considered the factors specified in section 1331(d)(3) of the ACA, along with the proposed data sources used to determine the Federal BHP payment rates for the applicable program year. The final BHP Payment Notice would be published in the **Federal Register** in February, and would include the final BHP payment methodology, as well as the Federal BHP payment rates for the applicable BHP program year. For example, payment rates in the final BHP Payment Notice published in February 2015 applied to BHP program year 2016, beginning in January 2016. As discussed in section II.D. of this final rule, and as referenced in 42 CFR 600.610(b)(2), State data needed to calculate the Federal BHP payment rates for the final BHP Payment Notice must be submitted to CMS.

In the 2023 BHP proposed rule, we proposed to revise the schedule for issuance of payment notices and allow payment notices to be effective for 1 or multiple program years, as determined by and subject to the discretion of the Secretary, beginning with the 2023 BHP payment methodology. As discussed in section IV. of this final rule, we are finalizing this proposal. Thus, the payment methodology described in this final rule will be in effect until CMS proposes a new payment methodology.

As described in the BHP final rule, once the final rule for the applicable program year has been published, we will generally make modifications to the BHP funding methodology on a prospective basis, with limited exceptions. The BHP final rule provided that retrospective adjustments to the State's BHP payment amount may occur to the extent that the prevailing BHP funding methodology for a given program year permits adjustments to a State's Federal BHP payment amount due to insufficient data for prospective determination of the relevant factors specified in the applicable final BHP Payment Notice. For example, the population health factor adjustment described in section III.D.3. of this final rule allows for a retrospective adjustment (at the State's option) to account for the impact that BHP may have had on the risk pool and QHP premiums in the Exchange. Additional adjustments could be made to the payment rates to correct errors in applying the methodology (such as mathematical errors).

Under section 1331(d)(3)(ii) of the ACA, the funding methodology and payment rates are expressed as an amount per eligible individual enrolled in a BHP standard health plan (BHP enrollee) for each month of enrollment. These payment rates may vary based on categories or classes of enrollees. Actual payment to a State would depend on the actual enrollment of individuals found eligible in accordance with a State's certified BHP Blueprint eligibility and verification methodologies in coverage through the State BHP. A State that is approved to implement a BHP must provide data showing quarterly enrollment of eligible individuals in the various Federal BHP payment rate cells. Such data must include the following:

- Personal identifier;
- Date of birth;
- County of residence;
- Indian status;
- Family size;
- Household income;
- Number of persons in household enrolled in BHP;
- Family identifier;
- Months of coverage;
- Plan information; and
- Any other data required by CMS to properly calculate the payment.

B. The 2018 Final Administrative Order and 2019 Through 2022 Payment Methodologies

On October 11, 2017, the Attorney General of the United States provided the Department of Health and Human Services and the Department of the Treasury (the Departments) with a legal opinion indicating that the permanent appropriation at 31 U.S.C. 1324, from which the Departments had historically drawn funds to make CSR payments, cannot be used to fund CSR payments to insurers. In light of this opinion—and in the absence of any other appropriation that could be used to fund CSR payments—the Department of Health and Human Services directed CMS to discontinue CSR payments to issuers until Congress provides for an appropriation. In the absence of a Congressional appropriation for Federal funding for CSR payments, we cannot provide States with a Federal payment attributable to CSRs that would have been paid on behalf of BHP enrollees had they been enrolled in a QHP through an Exchange.

Starting with the payment for the first quarter (Q1) of 2018 (which began on January 1, 2018), we stopped paying the

[1] BHP program years span from January 1 through December 31.

CSR component of the quarterly BHP payments to New York and Minnesota (the States), the only States operating a BHP in 2018. The States then sued the Secretary for declaratory and injunctive relief in the United States District Court for the Southern District of New York. *See New York* v. *U.S. Dep't of Health & Human Servs.,* No. 18–cv–00683 (RJS) (S.D.N.Y. filed Jan. 26, 2018). On May 2, 2018, the parties filed a stipulation requesting a stay of the litigation so that HHS could issue an administrative order revising the 2018 BHP payment methodology. As a result of the stipulation, the court dismissed the BHP litigation. On July 6, 2018, we issued a Draft Administrative Order on which New York and Minnesota had an opportunity to comment. Each State submitted comments. We considered the States' comments and issued a Final Administrative Order on August 24, 2018 [2] (Final Administrative Order) setting forth the payment methodology that would apply to the 2018 BHP program year.

In the November 5, 2019 **Federal Register** (84 FR 59529) (hereinafter referred to as the November 2019 final BHP Payment Notice), we finalized the payment methodologies for BHP program years 2019 and 2020. The 2019 payment methodology is the same payment methodology described in the Final Administrative Order. The 2020 payment methodology is the same methodology as the 2019 payment methodology with one additional adjustment to account for the impact of individuals selecting different metal tier level plans in the Exchange, referred to as the Metal Tier Selection Factor (MTSF).[3] In the August 13, 2020 **Federal Register** (85 FR 49264 through 49280) (hereinafter referred to as the August 2020 final BHP Payment Notice), we finalized the payment methodology for BHP program year 2021. The 2021 payment methodology is the same methodology as the 2020 payment methodology, with one adjustment to the income reconciliation factor (IRF). In the July 7, 2021 **Federal Register** (86 FR 35615) (hereinafter referred to as the July 2021 final BHP Payment Notice), we finalized the payment methodology for BHP program year 2022. The 2022 payment methodology is the same as the 2021 payment methodology, which the exception of the removal of the MTSF. The 2023 payment methodology is the same as the 2022 payment methodology, except for the addition of a factor to account for a State operating a BHP and implementing an approved State Innovation Waiver under section 1332 of the ACA (referred to as a section 1332 waiver throughout this final payment methodology).

II. Summary of the Proposed Provisions and Analysis of and Responses to the Public Comments

In the May 25, 2022 **Federal Register** (87 FR 31815 through 31833), we published the ''Federal Funding Methodology for Program Year 2023 and Proposed Changes to Basic Health Program Regulations'' proposed rule (hereinafter referred to as the 2023 BHP proposed rule).

We received 7 timely public comments from individuals and organizations, including, but not limited to, State government agencies, other government agencies, and private citizens. In this section, we provide a summary of the provisions of the 2023 BHP proposed rule and the public comments and our responses.

A. Background

In the 2023 BHP proposed rule, we proposed the methodology for how the Federal BHP payments would be calculated for program year 2023 and subsequent years until a new payment methodology is proposed and finalized, in accordance with the policy finalized in section IV of this final rule.

We received the following comments on the background information included in the 2023 BHP proposed rule.

Comment: Several commenters were supportive of the 2023 BHP payment methodology described in the 2023 BHP proposed rule.

Response: We appreciate the support from these commenters. As described further in this final rule, we are finalizing the 2023 methodology as proposed in the 2023 BHP proposed rule.

Comment: One commenter suggested caution regarding the adoption of BHP in new States, as the establishment of a BHP could impact affordability for individuals who remain in Marketplace coverage. Specifically, the commenter noted that adoption of a BHP could result in a loss in overall enrollment in the individual market, higher premiums for consumers with incomes above 200 percent FPL who remain in the individual market, and a potential reduction in plan choices.

Response: We appreciate the comment. We believe that States should consider how a BHP would impact coverage and affordability for State residents as part of its decision to start a BHP.

B. Overview of the Funding Methodology and Calculation of the Payment Amount

In the 2023 BHP proposed rule, we proposed in the overview of the funding methodology to calculate the PTC and CSR as consistently as possible and in general alignment with the methodology used by Exchanges to calculate the advance payments of the PTC (APTC) and CSR, and by the Internal Revenue Service (IRS) to calculate the allowable PTC. We proposed four equations that would, if finalized, compose the overall BHP payment methodology. For specific discussions of these proposals, please refer to the 2023 BHP proposed rule (87 FR 31817 through 31819).

We received no comments on the overview of the funding methodology included in the 2023 BHP proposed rule. Therefore, we are finalizing these policies as proposed.

C. Federal BHP Payment Rate Cells

In the 2023 BHP proposed rule, we proposed to continue to require that a State implementing BHP provide us with an estimate of the number of BHP enrollees it will enroll in the upcoming BHP program quarter, by applicable rate cell, to determine the Federal BHP payment amounts. For each State, we proposed using rate cells that separate the BHP population into separate cells based on the following factors: age, geographic rating area, coverage status, household size, and income. For specific discussions of these proposals, please refer to the 2023 BHP proposed rule (87 FR 31819 through 31820).

We received no comments on this aspect of the proposed methodology. Therefore, we are finalizing these policies as proposed.

D. Sources and State Data Considerations

In the 2023 BHP proposed rule, we proposed to continue to use, to the extent possible, data submitted to the Federal Government by QHP issuers seeking to offer coverage through an Exchange that uses *HealthCare.gov* to determine the Federal BHP payment cell rates. However, for States operating a State-based Exchange (SBE), which do not use *HealthCare.gov*, we proposed to continue to require such States to submit required data for CMS to calculate the Federal BHP payment rates in those States. For specific discussions,

[2] *https://www.medicaid.gov/sites/default/files/2019-11/final-admin-order-2018-revised-payment-methodology.pdf.*

[3] ''Metal tiers'' refer to the different actuarial value plan levels offered on the Exchanges. Bronze-level plans generally must provide 60 percent actuarial value; silver-level 70 percent actuarial value; gold-level 80 percent actuarial value; and platinum-level 90 percent actuarial value. See 45 CFR 156.140.

please refer to the 2023 BHP proposed rule (87 FR 31820 through 31821).

We received no comments on this aspect of the proposed methodology. Therefore, we are finalizing these policies as proposed.

E. Discussion of Specific Variables Used in Payment Equations

In the 2023 BHP proposed rule, we proposed to use eight specific variables in the payment equations that compose the overall BHP funding methodology:

- Reference Premium (RP)
- Premium Adjustment Factor (PAF)
- Population Health Factor (PHF)
- Household Income (I)
- Premium Tax Credit Formula (PTCF)
- Income Reconciliation Factor (IRF)
- Premium Trend Factor (PTF)
- Section 1332 Waiver Factor (WF)

For each proposed variable, we included a discussion on the assumptions and data sources used in developing the variables. We proposed to include a new factor, the WF, to account for a State operating a BHP and implementing an approved section 1332 waiver. For specific discussions, please refer to 2023 BHP proposed rule (87 FR 31821 through 31826).

Below is a summary of the public comments we received regarding specific factors and our response.

Comment: Several commenters were supportive of the inclusion of the WF in the payment methodology. Specifically, commenters noted this factor will result in more equitable funding for States that have chosen to operate a BHP as well as a reinsurance program under section 1332 of the ACA.

Response: We appreciate the support from these commenters. After consideration of comments, we are finalizing the inclusion of the WF in the payment methodology as proposed.

F. State Option To Use Prior Program Year QHP Premiums for BHP Payments

In the 2023 BHP proposed rule, we proposed to continue to provide States operating a BHP with the option to use the 2022 QHP premiums multiplied by a premium trend factor to calculate the Federal BHP payment rates instead of using the 2023 QHP premiums. We proposed to require States to make their election for the 2023 program year within 60 days of publication of the final payment methodology. For specific discussions, please refer to the 2023 BHP proposed rule (87 FR 31827).

We received no comments on this aspect of the proposed methodology. Therefore, we are finalizing these policies as proposed.

G. State Option To Include Retrospective State-Specific Health Risk Adjustment in Certified Methodology

In the 2023 BHP proposed rule, we proposed to provide States implementing BHP the option to develop a methodology to account for the impact that including the BHP population in the Exchange would have had on QHP premiums based on any differences in health status between the BHP population and persons enrolled through the Exchange. We proposed that States would submit their optional protocol to CMS by the later of August 1, 2022, or 60 days after the publication of the final rule. We proposed that CMS would approve the protocol by December 31, 2022. For specific discussions, please refer to the 2023 BHP proposed rule (87 FR 31827 through 31828).

We received no comments on this aspect of the methodology. Therefore, we are finalizing this policy as proposed, with one modification to the date by which CMS will approve the protocol. Because we are finalizing the 2023 payment methodology after August 1, 2022, a State electing this option must submit its operational protocol to CMS within 60 days of publication of this final rule. Because December 31, 2022, falls within 60 days of publication of this final rule, we are finalizing that CMS will review and approve the State's protocol within 60 days of receipt of the proposed protocol.

H. Revisions to Basic Health Program Regulations

In the 2023 BHP proposed rule, we proposed two changes related to the timing of publication of the BHP payment methodologies and correcting payment errors in § 600.610 (87 FR 31828 through 31829). Specifically, we proposed to revise § 600.610(a)(1) to provide for issuance of payment methodology that may be effective for only 1 or multiple program years, as determined by and subject to the discretion of the Secretary, beginning with the 2023 BHP payment methodology and then going forward. In addition, we proposed at § 600.610(a)(1) and (b)(1) to change the schedule of publication dates for the proposed and final BHP payment methodologies. We also proposed changes to § 600.610(c)(2)(ii) to allow retroactive adjustments to a State's payment if the payment was a result of an error in the application of the payment methodology, which would allow CMS to correct payments made to States in 2019 that were based on an incorrect value for the income reconciliation factor.

Below is a summary of the public comments we received regarding these proposals and our responses.

Comment: Many commenters expressed support for the regulatory changes. Specifically, one commenter noted that allowing the payment methodology to apply to multiple years will reduce administrative burden when there are no changes to the proposed payment methodology.

Response: We appreciate the support from these commenters. As described further in this final rule, we are finalizing the regulations as proposed.

Comment: One commenter requested clarification regarding how CMS will notify States of the annual deadlines for electing to use the current year's Marketplace premiums or the previous year's Marketplace premiums (multiplied by a trend factor) for purposes of calculating BHP payments and submitting an optional risk adjustment protocol.

Response: To maintain consistency with the deadlines established for making these elections for previous program years, States will have until the later of May 15 of the year preceding the applicable program year or 30 days from the release of the subregulatory guidance to elect to use the current year's Marketplace premiums or the previous year's Marketplace premiums (multiplied by a trend factor) for purposes of calculating Federal BHP payments. States will have until the later of August 1 of the year preceding the applicable program year or 30 days from the release of the subregulatory guidance to submit an optional risk adjustment protocol. These dates will be included in the subregulatory guidance CMS issues.

Comment: One commenter requested that CMS issue subregulatory guidance updating the values of factors needed to calculate Federal BHP payments by January of the year preceding the applicable benefit year.

Response: We are unable to carry out the commenter's request because the value of the factors may not be available in time to publish subregulatory guidance annually in January. We anticipate releasing subregulatory guidance in the Spring of the year preceding the applicable benefit year to the extent possible. As discussed previously in this final rule, States will have until the later of May 15 of the year preceding the applicable program year or 30 days from the release of the subregulatory guidance to elect to use the current year's Marketplace premiums or the previous year's

Marketplace premiums (multiplied by a trend factor) for purposes of calculating Federal BHP payments.

Comment: One commenter supported the proposed regulation change that would allow CMS to correct the 2019 payments to States that were calculated based on an incorrect value for the income reconciliation factor.

Response: We appreciate the support and are finalizing these regulation changes as proposed, with minor formatting edits. Specifically, we are separating revised § 600.610(a)(1) into § 600.610(a)(1)(i) and (ii) for improved clarity.

After consideration of public comments received, we are finalizing these regulation changes as proposed.

III. Provisions of the 2023 BHP Payment Methodology

A. Overview of the Funding Methodology and Calculation of the Payment Amount

Section 1331(d)(3) of the ACA directs the Secretary to consider several factors when determining the Federal BHP payment amount, which, as specified in the statute, must equal 95 percent of the value of the PTC allowed and CSRs that would have been paid on behalf of BHP enrollees had they enrolled in a QHP through an Exchange. Thus, the BHP funding methodology is designed to calculate the PTC and CSRs as consistently as possible and in general alignment with the methodology used by Exchanges to calculate advance payments of the PTC (APTC) and CSRs, and the methodology used to calculate PTC under 26 U.S.C. 36B, for the tax year. In general, we have relied on values for factors in the payment methodology specified in statute or other regulations, as available, and have developed values for other factors not otherwise specified in statute, or previously calculated in other regulations, to simulate the values of the PTC allowed and CSRs that would have been paid on behalf of BHP enrollees if they had enrolled in QHPs offered through an Exchange. In accordance with section 1331(d)(3)(A)(iii) of the ACA, the final funding methodology must be certified by the Chief Actuary of CMS, in consultation with the Office of Tax Analysis (OTA) of the Department of the Treasury, as having met the requirements of section 1331(d)(3)(A)(ii) of the ACA.

Section 1331(d)(3)(A)(ii) of the ACA specifies that the payment determination shall take into account all relevant factors necessary to determine the value of the PTC allowed and CSRs that would have been paid on behalf of eligible individuals, including but not limited to, the age and income of the enrollee, whether the enrollment is for self-only or family coverage, geographic differences in average spending for health care across rating areas, the health status of the enrollee for purposes of determining risk adjustment payments and reinsurance payments that would have been made if the enrollee had enrolled in a QHP through an Exchange, and whether any reconciliation of APTC and CSR would have occurred if the enrollee had been so enrolled. Under all previous payment methodologies, the total Federal BHP payment amount has been calculated using multiple rate cells in each State. Each rate cell represents a unique combination of age range (if applicable),[4] geographic area, coverage category (for example, self-only or two-adult coverage through the BHP), household size, and income range as a percentage of FPL, and there is a distinct rate cell for individuals in each coverage category within a particular age range who reside in a specific geographic area and are in households of the same size and income range. The BHP payment rates developed also are consistent with the State's rules on age rating. Thus, in the case of a State that does not use age as a rating factor on an Exchange, the BHP payment rates would not vary by age.

Under the methodology finalized in the July 2021 final BHP Payment Notice, the rate for each rate cell is calculated in two parts. The first part is equal to 95 percent of the estimated PTC that would have been allowed if a BHP enrollee in that rate cell had instead enrolled in a QHP in an Exchange. The second part is equal to 95 percent of the estimated CSR payment that would have been made if a BHP enrollee in that rate cell had instead enrolled in a QHP in an Exchange. These two parts are added together and the total rate for that rate cell would be equal to the sum of the PTC and CSR rates. As noted in the July 2021 final BHP Payment Notice, we currently assign a value of zero to the CSR portion of the BHP payment rate calculation, because there is presently no available appropriation from which we can make the CSR portion of any BHP payment.

We note that throughout this final rule, when we refer to enrollees and enrollment data, we mean data regarding individuals who are enrolled in the BHP who have been found eligible for the BHP using the eligibility and verification requirements that are applicable in the State's most recent certified Blueprint. By applying the equations separately to rate cells based on age (if applicable), income and other factors, we effectively take those factors into account in the calculation. In addition, the equations reflect the estimated experience of individuals in each rate cell if enrolled in coverage through an Exchange, taking into account additional relevant variables. Each of the variables in the equations is defined in this section, and further detail is provided later in this section of this final rule.

As noted in section II.B. of this final rule, we proposed four equations, which we are finalizing as proposed, that would compose the overall BHP payment methodology. Equation (1) will be used to calculate the estimated PTC for eligible individuals enrolled in the BHP in each rate cell. Equation (2a) and Equation (2b) will be used to calculate the adjusted reference premium that is used in Equation (1). Equation (3) will determine the total monthly payment by rate cell.

Equation 1: Estimated PTC by Rate Cell

We are finalizing, as proposed, that estimated PTC per enrollee will be calculated for each rate cell for each State based on age range (if applicable), geographic area, coverage category, household size, and income range. The PTC portion of the rate will be calculated in a manner consistent with the methodology used to calculate the PTC for persons enrolled in a QHP as defined in 26 CFR 1.36B–3, with five adjustments. First, the PTC portion of the rate for each rate cell will represent the mean, or average, expected PTC that all persons in the rate cell would receive, rather than being calculated for each individual enrollee. Second, the reference premium (RP) (described in section III.D.1. of this final rule) used to calculate the PTC will be adjusted for the BHP population health status. In the case of a State that elects to use 2022 premiums for the basis of the BHP Federal payment, the RP also will be adjusted for the projected change in the premium from 2022 to 2023. These adjustments are described in Equation (2a) and Equation (2b). Third, the PTC will be adjusted prospectively to reflect the average net expected impact of income reconciliation for individuals receiving APTC in the Exchange on the combination of all persons enrolled in the BHP; this adjustment, the IRF, which is described in section III.D.7. of this final rule, will account for the impact on the PTC that would have occurred had such reconciliation been

[4] In the case of a State that does not use age as a rating factor on an Exchange, the BHP payment rates would not vary by age.

performed. Finally, the rate is multiplied by 95 percent, consistent with section 1331(d)(3)(A)(i) of the ACA. We note that in the situation where the average income contribution of an enrollee would exceed the adjusted reference premium, we will calculate the PTC to be equal to 0 and would not allow the value of the PTC to be negative.

Consistent with the methodology described above, Equation (1), used to calculate the PTC portion of the BHP payment for each rate cell, is finalized as follows:

$$\textbf{Equation (1)}:\ PTC_{a,g,c,h,i} = \left[ARP_{a,g,c} - \frac{\sum_j I_{h,i,j} \times PTCF_{h,i,j}}{n}\right] \times IRF \times 95\%$$

$PTC_{a,g,c,h,i}$ = Premium tax credit portion of BHP payment rate
a = Age range
g = Geographic area
c = Coverage status (self-only or applicable category of family coverage) obtained through BHP
h = Household size
i = Income range (as percentage of FPL)
$ARP_{a,g,c}$ = Adjusted reference premium
$I_{h,i,j}$ = Income (in dollars per month) at each 1 percentage-point increment of FPL
$j = j^{th}$ percentage-point increment FPL
n = Number of income increments used to calculate the mean PTC
$PTCF_{h,i,j}$ = Premium tax credit formula percentage
IRF = Income reconciliation factor

Equation (2a) and Equation (2b): Adjusted Reference Premium Variable (Used in Equation 1)

As part of the calculations for the PTC portion of the BHP payment, we will calculate the value of the adjusted reference premium as described below in Equations (2a) and (2b). We are finalizing these equations as proposed. Consistent with the existing approach, we will allow States to choose between using the actual current year premiums or the prior year's premiums multiplied by the PTF (described in section III.E. of this final rule). Below we describe how we will calculate the adjusted reference premium under each option.

In the case of a State that elects to use the reference premium (RP) based on the current program year (for example, 2023 premiums for the 2023 program year), Equation (2a) will be used to calculate the value of the adjusted reference premium. The RP, discussed in more detail in section III.D.1. of this final rule, is based on the second lowest cost silver plan premium in the applicable program year, in this case the current program year. The adjusted reference premium will be equal to the RP multiplied by the BHP population health factor (PHF) (described in section III.D.3. of this final rule), which will reflect the projected impact that enrolling BHP-eligible individuals in QHPs through an Exchange would have had on the average QHP premium, and multiplied by the PAF (described in section III.D.2. of this final rule). The PAF will account for the change in silver-level premiums due to the discontinuance of CSR payments. We will also multiply this value by the section 1332 waiver factor (WF) (described in section III.D.7 of this final rule), as applicable. Equation (2a) is finalized as follows:

$$\textbf{Equation (2a)}:\ ARP_{a,g,c} = RP_{a,g,c} \times PHF \times PAF \times WFg$$

$ARP_{a,g,c}$ = Adjusted reference premium
a = Age range
g = Geographic area
c = Coverage status (self-only or applicable category of family coverage) obtained through BHP
$RP_{a,g,c}$ = Reference premium
PHF = Population health factor
PAF = Premium adjustment factor
WF_g = Section 1332 waiver factor

In the case of a State that elected to use the RP based on the prior program year (for example, 2022 premiums for the 2023 program year), Equation (2b) will be used calculate the value of the adjusted reference premium. The adjusted reference premium will be equal to the RP for the prior program year multiplied by the BHP PHF (described in section III.D.3. of this final rule), which will reflect the projected impact that enrolling BHP-eligible individuals in QHPs on an Exchange would have had on the average QHP premium. It will then be multiplied by the PAF (described in section III.D.2. of this final methodology), which will account for the change in silver-level premiums due to the discontinuance of CSR payments. Then, it will be multiplied by the PTF (described in section III.E. of this final rule), which would reflect the projected change in the premium level between 2022 and 2023. Finally, it will be multiplied by the WF (described in section III.D.7 of this final rule). Equation (2b) is finalized as follows:

$$\textbf{Equation (2b)}:\ ARP_{a,g,c} = RP_{a,g,c} \times PHF \times PAF \times PTF \times WFg$$

$ARP_{a,g,c}$ = Adjusted reference premium
a = Age range
g = Geographic area
c = Coverage status (self-only or applicable category of family coverage) obtained through BHP
$RP_{a,g,c}$ = Reference premium
PHF = Population health factor
PAF = Premium adjustment factor
PTF = Premium trend factor
WF_g = Section 1332 waiver factor

Equation 3: Determination of Total Monthly Payment for BHP Enrollees in Each Rate Cell

In general, the payment rate for each rate cell will be multiplied by the number of BHP enrollees in that cell (that is, the number of enrollees that meet the criteria for each rate cell) to calculate the total monthly BHP payment. This calculation is shown in Equation (3), which we are finalizing as proposed.

$$\textbf{Equation (3)}: PMT = \sum \left[(PTC_{a,g,c,h,i} + CSR_{a,g,c,h,i}) \times E_{a,g,c,h,i} \right]$$

PMT = Total monthly BHP payment
$PTC_{a,g,c,h,i}$ = Premium tax credit portion of BHP payment rate
$CSR_{a,g,c,h,i}$ = Cost sharing reduction portion of BHP payment rate
$E_{a,g,c,h,i}$ = Number of BHP enrollees
a = Age range
g = Geographic area
c = Coverage status (self-only or applicable category of family coverage) obtained through BHP
h = Household size
i = Income range (as percentage of FPL)

In this equation, we will assign a value of zero to the CSR part of the BHP payment rate calculation ($CSR_{a,g,c,h,i}$) because there is presently no available appropriation from which we can make the CSR portion of any BHP payment. In the event that an appropriation for CSRs for 2022 is made, we will determine whether and how to modify the CSR part of the BHP payment rate calculation ($CSR_{a,g,c,h,i}$) or the PAF in the payment methodology.

B. Calculating Federal BHP Payment Rates for Each Rate Cells

We proposed to require the use of certain rate cells in applying Equations (1), (2a), (2b), and (3) of the payment methodology. Discussed in more detail below, we proposed to separate the BHP population into separate rate cells based on five factors (age, geographic area, coverage status, household size, and household income). We are finalizing use of the proposed rate cells and factors, as proposed.

Consistent with the previous payment methodologies, we also proposed that a State implementing a BHP will provide us an estimate of the number of BHP enrollees it projects will enroll in the upcoming BHP program quarter, by applicable rate cell, prior to the first quarter and each subsequent quarter of program operations until actual enrollment data is available. Upon our approval of such estimates as reasonable, we proposed to use those estimates to calculate the prospective payment, for deposit in the State's BHP trust fund, for the first and subsequent quarters of program operation until the State provides us with actual enrollment data for those periods. The actual enrollment data is required to calculate the final BHP payment amount and make any necessary reconciliation adjustments to the prior quarters' prospective payment amounts due to differences between projected and actual enrollment. Subsequent quarterly deposits to the State's BHP trust fund will be based on the most recent actual enrollment data submitted to us. Actual enrollment data must be based on individuals enrolled for the quarter whom the State found eligible and whose eligibility was verified using eligibility and verification requirements elected by the State in its applicable BHP Blueprint for the quarter that enrollment data is submitted. These procedures, which are finalized as proposed, will ensure that Federal payments to a State reflect actual BHP enrollment during a year, within each applicable rate cell, and prospectively determine Federal payment rates for each category of BHP enrollment.

We proposed to use rate cells that separate the BHP population in each State operating a BHP into separate cells based on the five factors described below. We are finalizing all five factors as proposed.

Factor 1—Age: We will separate enrollees into rate cells by age (if applicable), using the following age ranges that capture the widest variations in premiums under HHS's Default Age Curve: [5]

- Ages 0–20.
- Ages 21–34.
- Ages 35–44.
- Ages 45–54.
- Ages 55–64.

This provision is unchanged from the current methodology.[6]

Factor 2—Geographic area: For each State, we will separate enrollees into rate cells by geographic areas within which a single RP is charged by QHPs offered through the State's Exchange. Multiple, non-contiguous geographic areas will be incorporated within a single cell, so long as those areas share a common RP.[7] This provision is also unchanged from the current methodology.

Factor 3—Coverage status: We will separate enrollees into rate cells by coverage status, reflecting whether an individual is enrolled in self-only coverage or persons are enrolled in family coverage through the BHP, as provided in section 1331(d)(3)(A)(ii) of the ACA. For individuals enrolled in family coverage through the BHP, separate rate cells, as explained below, will apply based on whether such coverage involves two adults alone or whether it involves children. This provision is unchanged from the current methodology.

Factor 4—Household size: We will continue the current methods for separating enrollees into rate cells by household size that States use to determine BHP enrollees' household income as a percentage of the FPL under § 600.320 (Determination of eligibility for and enrollment in a standard health plan). We will require separate rate cells for several specific household sizes. For each additional member above the largest specified size, we will publish instructions for how we would develop additional rate cells and calculate an appropriate payment rate based on data for the rate cell with the closest specified household size. We will publish separate rate cells for household sizes of 1 through 10. This finalized provision is unchanged from the current methodology.

Factor 5—Household Income: For households of each applicable size, we will continue the current methods for creating separate rate cells by income range, as a percentage of FPL. The PTC that a person would receive if enrolled in a QHP through an Exchange varies by household income as a percentage of the FPL as well as by the metal tier level of the QHP plans in the Exchange. Thus,

[5] This curve is used to implement the ACA's 3:1 limit on age-rating in states that do not create an alternative rate structure to comply with that limit. The curve applies to all individual market plans, both within and outside the Exchange. The age bands capture the principal allowed age-based variations in premiums as permitted by this curve. The default age curve was updated for plan or policy years beginning on or after January 1, 2018 to include different age rating factors between children 0–14 and for persons at each age between 15 and 20. More information is available at *https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Downloads/StateSpecAgeCrv053117.pdf*. Both children and adults under age 21 are charged the same premium. For adults age 21–64, the age bands in this rule divide the total age-based premium variation into the three most equally-sized ranges (defining size by the ratio between the highest and lowest premiums within the band) that are consistent with the age-bands used for risk-adjustment purposes in the HHS-Developed Risk Adjustment Model. For such age bands, see HHS-Developed Risk Adjustment Model Algorithm ''Do It Yourself (DIY)'' Software Instructions for the 2018 Benefit Year, April 4, 2019 Update, *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-CY2018-DIY-instructions.pdf*.

[6] In this document, references to the ''current methodology'' refer to the 2022 program year methodology as outlined in the 2022 final BHP Payment Notice.

[7] For example, a cell within a particular state might refer to ''County Group 1,'' ''County Group 2,'' etc., and a table for the State would list all the counties included in each such group. These geographic areas are consistent with the geographic areas established under the 2014 Market Reform Rules. They also reflect the service area requirements applicable to QHPs, as described in 45 CFR 155.1055, except that service areas smaller than counties are addressed as explained in this rule.

separate rate cells will be used to calculate Federal BHP payment rates to reflect different bands of income measured as a percentage of FPL. We will use the following income ranges, measured as a percentage of the FPL:

- 0 to 50 percent of the FPL.
- 51 to 100 percent of the FPL.
- 101 to 138 percent of the FPL.[8]
- 139 to 150 percent of the FPL.
- 151 to 175 percent of the FPL.
- 176 to 200 percent of the FPL.

This provision is unchanged from the current methodology.

These rate cells will only be used to calculate the Federal BHP payment amount. A State implementing a BHP will not be required to use these rate cells or any of the factors in these rate cells as part of the State payment to the standard health plans participating in the BHP or to help define BHP enrollees' covered benefits, premium costs, or out-of-pocket cost-sharing levels.

Consistent with the current methodology, we are finalizing our proposal to use averages to define Federal payment rates, both for income ranges and age ranges (if applicable), rather than varying such rates to correspond to each individual BHP enrollee's age (if applicable) and income level. This approach will increase the administrative feasibility of making Federal BHP payments and reduce the likelihood of error resulting from highly complex methodologies. This approach should not significantly change Federal payment amounts, since within applicable ranges the BHP-eligible population is distributed relatively evenly.

The number of factors contributing to rate cells, when combined, can result in over 350,000 rate cells, which can increase the complexity when generating quarterly payment amounts. In future years, and in the interest of administrative simplification, we will consider whether to combine or eliminate certain rate cells, once we are certain that the effect on payment would be insignificant.

C. Sources and State Data Considerations

To the extent possible, unless otherwise provided, we will continue to use data submitted to the Federal government by QHP issuers seeking to offer coverage through the Exchange in the relevant BHP State to perform the calculations that determine Federal BHP payment cell rates.

States operating an SBE in the individual market must provide data to support the development of the Federal BHP payment rates in those States, for example premiums for their second lowest cost silver plans, by geographic area. We proposed that States operating BHPs interested in obtaining the applicable 2023 program year Federal BHP payment rates for its State must submit the needed data accurately, completely, and as specified by CMS, by no later than October 15, 2022. Because we are finalizing this rule after October 15, 2022, States must submit this data to CMS within 30 days of publication of this final rule. If additional State data (that is, in addition to the second lowest cost silver plan premium data) are needed to determine the Federal BHP payment rate, such data must be submitted in a timely manner, and in a format specified by us to support the development and timely release of annual BHP Payment Methodologies. The specifications for data collection to support the development of BHP payment rates are published in CMS guidance and are available on the Basic Health Program page of *Medicaid.gov, https://www.medicaid.gov/sites/default/files/2019-11/premium-data-collection-tool.zip*.

States operating a BHP should be technologically prepared to begin submitting actual enrollment data at the start of their BHP, starting with the beginning of the first program year. States must submit actual enrollment data to CMS on a quarterly basis thereafter. This differs from the enrollment estimates used to calculate the initial BHP payment, which States would generally submit to CMS 60 days before the start of the first quarter of the program start date. This requirement is necessary for us to implement the payment methodology that is tied to a quarterly reconciliation based on actual enrollment data.

We are finalizing our proposal to continue the policy first adopted in the 2016 final BHP payment methodology that in States that have BHP enrollees who do not file Federal tax returns (non-filers), the State must develop a methodology to determine the enrollees' household income and household size consistently with Exchange requirements.[9] The State must submit this methodology, which is subject to CMS approval, to us at the time of their Blueprint submission. We reserve the right to approve or disapprove the State's methodology to determine household income and household size for non-filers if the household composition and/or household income resulting from application of the methodology are different from what typically would be expected to result if the individual or head of household in the family were to file a tax return. States currently operating a BHP that wish to change the methodology for non-filers must submit a revised Blueprint outlining the revisions to its methodology, consistent with § 600.125.

In addition, as the Federal payments are determined quarterly and the enrollment data is required to be submitted by the States to us quarterly, the quarterly payment will be based on the characteristics of the enrollee at the beginning of the quarter (or their first month of enrollment in the BHP in each quarter). Thus, if an enrollee were to experience a change in county of residence, household income, household size, or other factors related to the BHP payment determination during the quarter, the payment for the quarter will be based on the data as of the beginning of the quarter (or their first month of enrollment in the BHP in the applicable quarter). Payments will still be made only for months that the person is enrolled in and eligible for the BHP. We do not anticipate that this will have a significant effect on the Federal BHP payment. The States must maintain data that is consistent with CMS' verification requirements, including auditable records for each individual enrolled, indicating an eligibility determination and a determination of income and other criteria relevant to the payment methodology as of the beginning of each quarter.

Consistent with § 600.610 (Secretarial determination of BHP payment amount), the State is required to submit certain data in accordance with this final rule. We require that this data be collected and validated by States operating a BHP, and that this data be submitted to CMS.

D. Discussion of Specific Variables Used in Payment Equations

1. Reference Premium (RP)

As explained in section III.D.5. of this final rule, the PTC is based, in part, on the premiums for the applicable second lowest cost silver plan offered through the Exchange operating in the state. To calculate the estimated PTC that would be paid if BHP-eligible individuals enrolled in QHPs through an Exchange, we must calculate a RP. For the purposes of calculating the BHP payment rates, the RP, in accordance with 26 U.S.C. 36B(b)(3)(C), is defined as the adjusted monthly premium for an

[8] The three lowest income ranges will be limited to lawfully present immigrants who are ineligible for Medicaid because of immigration status.

[9] See ''Basic Health Program; Federal Funding Methodology for Program Years 2017 and 2018,'' 81 FR 10091 at 10097, February 29, 2016.

applicable second lowest cost silver plan. The applicable second lowest cost silver plan is defined in 26 U.S.C. 36B(b)(3)(B) as the second lowest cost silver plan of the individual market in the rating area in which the taxpayer resides that is offered through the same Exchange. We will use the adjusted monthly premium for an applicable second lowest cost silver plan in the applicable program year (2023) as the RP (except in the case of a State that elects to use the prior plan year's premium as the basis for the Federal BHP payment for 2022, as described in section III.E. of this final rule). This method is unchanged from the current methodology except to update the reference years, and to provide additional methodological details to simplify calculations and to deal with potential ambiguities.

The RP used for purposes of calculating the Federal BHP payment will be the premium applicable to non-tobacco users. This is consistent with the provision in 26 U.S.C. 36B(b)(3)(C) that bases the PTC on premiums that are adjusted for age alone, without regard to tobacco use, even for States that allow insurers to vary premiums based on tobacco use in accordance with 42 U.S.C. 300gg(a)(1)(A)(iv).

Consistent with the policy set forth in 26 CFR 1.36B–3(f)(6), to calculate the PTC for those enrolled in a QHP through an Exchange, we will not update the payment methodology, and subsequently the Federal BHP payment rates, in the event that the second lowest cost silver plan used as the RP, or the lowest cost silver plan, changes (that is, terminates or closes enrollment during the year).

The applicable second lowest cost silver plan premium will be included in the BHP payment methodology by age range (if applicable), geographic area, and self-only or applicable category of family coverage obtained through the BHP.

We note that the choice of the second lowest cost silver plan for calculating BHP payments relies on several simplifying assumptions in its selection. For the purposes of determining the second lowest cost silver plan for calculating PTC for a person enrolled in a QHP through an Exchange, the applicable plan may differ for various reasons. For example, the second lowest cost silver plan for a family consisting of two adults, their child, and their niece may be different than the second lowest cost silver plan for a family with two adults and their children, because one or more QHPs in the family's geographic area might not offer family coverage that includes a niece. We believe that it would not be possible to replicate such variations for calculating the BHP payment and believe that in the aggregate, they will not result in a significant difference in the payment. Thus, we will use the second lowest cost silver plan available to any enrollee for a given age, geographic area, and coverage category.

This choice of RP relies on an assumption about enrollment in the Exchanges. In the payment methodologies for program years 2015 through 2019, we had assumed that all persons enrolled in the BHP would have elected to enroll in a silver level plan if they had instead enrolled in a QHP through an Exchange (and that the QHP premium would not be lower than the value of the PTC). In the November 2019 final BHP Payment Notice, we continued to use the second-lowest cost silver plan premium as the RP, but for the 2020 payments we changed the assumption about which metal tier plans enrollees would choose, by adding the Metal Tier Selection Factor (MTSF). In the final 2022 payment methodology, we removed the MTSF. We will continue the approach taken in the final 2022 payment methodology and not apply the MTSF in this 2023 payment methodology.

We do not believe it is appropriate to adjust the payment for an assumption that some BHP enrollees would not have enrolled in QHPs for purposes of calculating the BHP payment rates, since section 1331(d)(3)(A)(ii) of the ACA requires the calculation of such rates as if the enrollee had enrolled in a QHP through an Exchange.

The applicable age bracket (if any) will be one dimension of each rate cell. We proposed to assume a uniform distribution of ages and estimate the average premium amount within each rate cell. We believe that assuming a uniform distribution of ages within these ranges is a reasonable approach and would produce a reliable determination of the total monthly payment for BHP enrollees. We also believe this approach will avoid potential inaccuracies that could otherwise occur in relatively small payment cells if age distribution were measured by the number of persons eligible or enrolled. We have used this approach starting since the 2015 program year. We believe that other approaches (that is, other than assuming uniform age distribution) could skew the calculation of the payment rates for each rate cell. Given the number of rate cells and the fact that in some cases the number of enrollees in a cell may be small (particularly for less common family sizes, smaller counties, etc.), we believe that using estimates of age distribution or historical data also could skew results. We also believe a uniform age distribution is reasonably simple to use and avoids increasing burden on States to report data to CMS. We have found this approach reliable to date.

We will use geographic areas based on the rating areas used in the Exchanges. We will define each geographic area so that the RP is the same throughout the geographic area. When the RP varies within a rating area, we will define geographic areas as aggregations of counties with the same RP. Although plans are allowed to serve geographic areas smaller than counties after obtaining our approval, no geographic area, for purposes of defining BHP payment rate cells, will be smaller than a county. We believe that the benefits of simplifying both the calculation of BHP payment rates and the operation of the BHP justify any impacts on Federal payment levels.

Finally, in terms of the coverage category, Federal payment rates will only recognize self-only and two-adult coverage, with exceptions that account for children who are potentially eligible for the BHP. First, in States that set the upper income threshold for children's Medicaid and CHIP eligibility below 200 percent of FPL (based on modified adjusted gross income (MAGI)), children in households with incomes between that threshold and 200 percent of FPL would be potentially eligible for the BHP. Currently, the only States in this category are Idaho and North Dakota.[10] Second, the BHP will include lawfully present immigrant children with household incomes at or below 200 percent of FPL in States that have not exercised the option under sections 1903(v)(4)(A)(ii) and 2107(e)(1)(E) of the Act to qualify all otherwise eligible, lawfully present immigrant children for Medicaid and CHIP. States that fall within these exceptions will be identified based on their Medicaid and CHIP State Plans, and the rate cells will include appropriate categories of BHP family coverage for children. For example, Idaho's Medicaid and CHIP eligibility is limited to families with MAGI at or below 185 percent FPL. If Idaho implemented a BHP, Idaho children with household incomes between 185 and 200 percent could qualify. In other States, BHP eligibility will generally be restricted to adults, since children who are citizens or lawfully present immigrants and live in households with incomes at or below

[10] Center for Medicaid and CHIP Services (CMCS). ''State Medicaid, CHIP and BHP Income Eligibility Standards Effective October 1, 2020.''

200 percent of FPL will qualify for Medicaid or CHIP, and thus be ineligible for a BHP under section 1331(e)(1)(C) of the ACA, which limits a BHP to individuals who are ineligible for minimum essential coverage (as defined in 26 U.S.C. 5000A(f)).

2. Premium Adjustment Factor (PAF)

The PAF considers the premium increases in other States that took effect after we discontinued payments to issuers for CSRs provided to enrollees in QHPs offered through Exchanges. Despite the discontinuance of Federal payments for CSRs, QHP issuers are required to provide CSRs to eligible enrollees. As a result, many QHP issuers increased the silver-level plan premiums to account for those additional costs; adjustments and how those were applied (for example, to only silver-level plans or to all metal tier plans) varied across States. For the States operating BHPs in 2018, the increases in premiums were relatively minor, because the majority of enrollees eligible for CSRs (and all who were eligible for the largest CSRs) were enrolled in the BHP and not in QHPs on the Exchanges, and therefore issuers in BHP States did not significantly raise premiums to cover costs related to HHS not making CSR payments.

In the Final Administrative Order and the 2019 through 2022 final BHP Payment Notices, we incorporated the PAF into the BHP payment methodologies to capture the impact of how other States responded to us ceasing to make CSR payments. We will include the PAF in the 2023 payment methodology and will calculate it in the same manner as in the Final Administrative Order. In the event that an appropriation for CSRs for 2023 is made, we would determine whether and how to modify the PAF in the payment methodology.

Under the Final Administrative Order,[11] we calculated the PAF by using information sought from QHP issuers in each State and the District of Columbia, and we determined the premium adjustment that the responding QHP issuers made to each silver level plan in 2018 to account for the discontinuation of CSR payments to QHP issuers. Based on the data collected, we estimated the median adjustment for silver level QHPs nationwide (excluding those in the two BHP States). To the extent that QHP issuers made no adjustment (or the adjustment was zero), this would be counted as zero in determining the median adjustment made to all silver level QHPs nationwide. If the amount of the adjustment was unknown—or we determined that it should be excluded for methodological reasons (for example, the adjustment was negative, an outlier, or unreasonable)—then we did not count the adjustment towards determining the median adjustment.[12] The median adjustment for silver level QHPs is the nationwide median adjustment.

For each of the two BHP States, we determined the median premium adjustment for all silver level QHPs in that State, which we refer to as the State median adjustment. The PAF for each BHP State equaled one plus the nationwide median adjustment divided by one plus the State median adjustment for the BHP State. In other words:

PAF = (1 + Nationwide Median Adjustment) ÷ (1 + State Median Adjustment).

To determine the PAF described above, we sought to collect QHP information from QHP issuers in each State and the District of Columbia to determine the premium adjustment those issuers made to each silver level plan offered through the Exchange in 2018 to account for the end of CSR payments. Specifically, we sought information showing the percentage change that QHP issuers made to the premium for each of their silver level plans to cover benefit expenditures associated with the CSRs, given the lack of CSR payments in 2018. This percentage change was a portion of the overall premium increase from 2017 to 2018.

According to our records, there were 1,233 silver level QHPs operating on Exchanges in 2018. Of these 1,233 QHPs, 318 QHPs (25.8 percent) responded to our request for the percentage adjustment applied to silver level QHP premiums in 2018 to account for the discontinuance of the CSRs. These 318 QHPs operated in 26 different States, with 10 of those States running SBEs (while we requested information only from QHP issuers in States serviced by an FFE, many of those issuers also had QHPs in States operating SBEs and submitted information for those States as well). Thirteen of these 318 QHPs were in New York (and none were in Minnesota). Excluding these 13 QHPs from the analysis, the nationwide median adjustment was 20.0 percent. Of the 13 QHPs in New York that responded, the State median adjustment was 1.0 percent. We believe that this is an appropriate adjustment for QHPs in Minnesota, as well, based on the observed changes in New York's QHP premiums in response to the discontinuance of CSR payments (and the operation of the BHP in that State) and our analysis of expected QHP premium adjustments for States with BHPs. We calculated the final PAF as (1 + 20%) ÷ (1 + 1%) (or 1.20/1.01), which results in a value of 1.188.

We are finalizing our proposal to continue to set the PAF to 1.188 for program year 2023, with one limited exception as described below. We believe that this value for the PAF continues to reasonably account for the increase in silver-level premiums experienced in non-BHP States that took effect after the discontinuance of the CSR payments. We believe that the impact of the increase in silver-level premiums in 2022 can reasonably be expected to be similar to that in 2018, because the discontinuation of CSR payments has not changed. Moreover, we believe that States and QHP issuers have not significantly changed the manner and degree to which they are increasing QHP silver-level premiums to account for the discontinuation of CSR payments since 2018, and we expect the same for 2023.

In addition, the percentage difference between the average second lowest cost silver level QHP and the bronze-level QHP premiums has not changed significantly since 2018, and we do not expect a significant change for 2023. In 2018, the average second lowest cost silver level QHP premium was 41.1 percent higher than the average lowest cost bronze level QHP premium ($481 and $341, respectively). In 2022, (the latest year for which premiums have been published), the difference was modestly lower; the average second lowest cost silver level QHP premium was 33.1 percent higher than the average lowest cost bronze level QHP premium ($438 and $329, respectively).[13] In contrast, the average second lowest cost silver level QHP premium was only 23.8 percent higher than the average lowest cost bronze level QHP premium in 2017 ($359 and

[11] *https://www.medicaid.gov/sites/default/files/2019-11/final-admin-order-2018-revised-payment-methodology.pdf.*

[12] Some examples of outliers or unreasonable adjustments include (but are not limited to) values over 100 percent (implying the premiums doubled or more because of the adjustment), values more than double the otherwise highest adjustment, or non-numerical entries.

[13] Kaiser Family Foundation, ''Average Marketplace Premiums by Metal Tier, 2018–2022,'' *https://www.kff.org/health-reform/state-indicator/average-marketplace-premiums-by-metal-tier/.* [Accessed August 1, 2022.]

$290, respectively).[14] If there were a significant difference in the amounts that QHP issuers were increasing premiums for silver level QHPs to account for the discontinuation of CSR payments over time, then we would expect the difference between the bronze level and silver level QHP premiums to change significantly over time, and that this would be apparent in comparing the lowest-cost bronze-level QHP premium to the second lowest cost silver level QHP premium.

We are finalizing our proposal to make one limited exception in setting the value of the PAF, for States in the first year of implementing a BHP. In the case of a State in the first year of implementing a BHP, if the State chooses to use prior year second lowest cost silver level QHP premium to determine the BHP payment (for example, the 2022 premiums for the 2023 program year), we will set the value of the PAF to 1.00. In this case, we believe that adjustment to the QHP premiums to account for the discontinuation of CSR payments would be included fully in the prior year premiums. If the State chooses to use the prior year premiums, then no further adjustment would be necessary for the BHP payments; therefore, the value of the PAF will be 1.00.

3. Population Health Factor (PHF)

We are finalizing our proposal to include the PHF in the methodology to account for the potential differences in the average health status between BHP enrollees and persons enrolled through the Exchanges. To the extent that BHP enrollees would have been enrolled through an Exchange in the absence of a BHP in a State, the exclusion of those BHP enrollees in the Exchange may affect the average health status of the overall population and the expected QHP premiums.

We currently do not believe that there is evidence that the BHP population would have better or poorer health status than the Exchange population. At this time, there continues to be a lack of data on the experience in the Exchanges that limits the ability to analyze the potential health differences between these groups of enrollees. More specifically, Exchanges have been in operation since 2014, and 2 States have operated BHPs since 2015, but data is not available to do the analysis necessary to determine if there are differences in the average health status between BHP and Exchange enrollees. In addition, differences in population health may vary across States. We also do not believe that sufficient data would be available to permit us to make a prospective adjustment to the PHF under § 600.610(c)(2) for the 2023 program year.

Given these analytic challenges and the limited data about Exchange coverage and the characteristics of BHP-eligible consumers, the PHF will be 1.00 for program year 2023.

In previous years' BHP payment methodologies, we included an option for States to include a retrospective population health status adjustment. States will have same option for 2023 to include a retrospective population health status adjustment in the certified methodology, which is subject to our review and approval. This option is described further in section III.F. of this final rule. Regardless of whether a State elects to include a retrospective population health status adjustment, we anticipate that, in future years, when additional data becomes available about Exchange coverage and the characteristics of BHP enrollees, we may propose a different PHF.

While the statute requires consideration of risk adjustment payments and reinsurance payments insofar as they would have affected the PTC that would have been provided to BHP-eligible individuals had they enrolled in QHPs, we are not requiring that a BHP's standard health plans receive such payments. As explained in the BHP final rule, BHP standard health plans are not included in the Federally-operated risk adjustment program.[15] Further, standard health plans did not qualify for payments under the transitional reinsurance program established under section 1341 of the ACA for the years the program was operational (2014 through 2016).[16] To the extent that a State operating a BHP determines that, because of the distinctive risk profile of BHP-eligible consumers, BHP standard health plans should be included in mechanisms that share risk with other plans in the State's individual market, the State would need to use other methods for achieving this goal.

4. Household Income (I)

Household income is a significant determinant of the amount of the PTC that is provided for persons enrolled in a QHP through an Exchange. Accordingly, all BHP Payment Methodologies incorporate household income into the calculations of the payment rates through the use of income-based rate cells. We are finalizing our proposal to define household income in accordance with the definition of modified adjusted gross income in 26 U.S.C. 36B(d)(2)(B) and consistent with the definition in 45 CFR 155.300. Income will be measured relative to the FPL, which is updated periodically in the **Federal Register** by the Secretary under the authority of 42 U.S.C. 9902(2). Household size and income as a percentage of FPL will be used as factors in developing the rate cells. We are finalizing our proposal to use the following income ranges measured as a percentage of FPL:[17]

- 0–50 percent.
- 51–100 percent.
- 101–138 percent.
- 139–150 percent.
- 151–175 percent.
- 176–200 percent.

We are finalizing our proposal to assume a uniform income distribution for each Federal BHP payment cell. We believe that assuming a uniform income distribution for the income ranges finalized will be reasonably accurate for the purposes of calculating the BHP payment and would avoid potential errors that could result if other sources of data were used to estimate the specific income distribution of persons who are eligible for or enrolled in the BHP within rate cells that may be relatively small.

Thus, when calculating the mean, or average, PTC for a rate cell, we will calculate the value of the PTC at each one percentage point interval of the income range for each Federal BHP payment cell and then calculate the average of the PTC across all intervals. This calculation would rely on the PTC formula described in section III.D.5. of this final rule.

As the APTC for persons enrolled in QHPs would be calculated based on their household income during the open enrollment period, and that income would be measured against the FPL at that time, we will adjust the FPL by multiplying the FPL by a projected increase in the CPI–U between the time that the BHP payment rates are calculated and the QHP open enrollment period, if the FPL is

[14] See Basic Health Program: Federal Funding Methodology for Program Years 2019 and 2020; Final Methodology, 84 FR 59529 at 59532 (November 5, 2019).

[15] See 79 FR 14131.

[16] See 45 CFR 153.400(a)(2)(iv) (BHP standard health plans are not required to submit reinsurance contributions), 153.20 (definition of ''Reinsurance-eligible plan'' as not including ''health insurance coverage not required to submit reinsurance contributions''), 153.230(a) (reinsurance payments under the national reinsurance parameters are available only for ''Reinsurance-eligible plans'').

[17] These income ranges and this analysis of income apply to the calculation of the PTC.

expected to be updated during that time. The projected increase in the CPI–U will be based on the intermediate inflation forecasts from the most recent Old-Age, Survivors, and Disability Insurance (OASDI) and Medicare Trustees Reports.[18]

5. Premium Tax Credit Formula (PTCF)

In Equation 1, described in section III.A.1. of this final rule, we are finalizing our proposal to use the formula described in 26 U.S.C. 36B(b) to calculate the estimated PTC that would be paid on behalf of a person enrolled in a QHP on an Exchange as part of the BHP payment methodology. This formula is used to determine the contribution amount (the amount of premium that an individual or household theoretically would be required to pay for coverage in a QHP on an Exchange), which is based on (A) the household income; (B) the household income as a percentage of FPL for the family size; and (C) the schedule specified in 26 U.S.C. 36B(b)(3)(A) and shown below.

The difference between the contribution amount and the adjusted monthly premium (that is, the monthly premium adjusted for the age of the enrollee) for the applicable second lowest cost silver plan is the estimated amount of the PTC that would be provided for the enrollee.

The PTC amount provided for a person enrolled in a QHP through an Exchange is calculated in accordance with the methodology described in 26 U.S.C. 36B(b)(2). The amount is equal to the lesser of the premium for the plan in which the person or household enrolls, or the adjusted premium for the applicable second lowest cost silver plan minus the contribution amount.

The applicable percentage is defined in 26 U.S.C. 36B(b)(3)(A) and 26 CFR 1.36B–3(g) as the percentage that applies that applies to a taxpayer's household income that is within an income tier, increasing on a sliding scale in a linear manner from an initial premium percentage to a final premium percentage. We are finalizing our proposal to continue to use applicable percentages to calculate the estimated PTC that would be paid on behalf of a person enrolled in a QHP on an Exchange as part of the BHP payment methodology as part of Equation 1.

As described in section II.D.5 of the 2023 BHP proposed rule, we are finalizing our proposal to use the formula described in 26 U.S.C. 36B(b) to calculate the estimated PTC that would be paid on behalf of a person enrolled in a QHP in the Marketplace as part of the BHP payment methodology. In 2021 and 2022, the applicable percentages defined in 26 U.S.C. 36B(b)(3)(A) and 26 CFR 1.36B–3(g) were set in the American Rescue Plan Act of 2021 (Pub. L. 117–2, enacted March 11, 2021). We used those applicable percentages for program years 2021 and 2022. Section 12001 of Subtitle C of the Inflation Reduction Act of 2022 (Pub. L. 117–169, enacted August 16, 2022) extended these applicable percentages for the years 2023 through 2025. Therefore, we will use the applicable percentages in Table 1 for the 2023 BHP program year.

The updated applicable percentages, which are described in Table 1, increase on a sliding scale in a linear manner from the premium percentage applicable to individuals with income at the lowest end of the premium band to the premium percentage applicable to individuals with income at the highest end of the premium band.

TABLE 1—APPLICABLE PERCENTAGE TABLE FOR CY 2023 UNDER SECTION 12001 OF THE INFLATION REDUCTION ACT OF 2022

In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Up to 150%	0.0	0.0
150.0% percent up to 200.0%	0.0	2.0
200.0% up to 250.0%	2.0	4.0
250.0% up to 300.0%	4.0	6.0
300.0 percent up to 400.0%	6.0	8.5
400.0% percent and higher	8.5	8.5

6. Income Reconciliation Factor (IRF)

For persons who enroll, or enroll a family member, in a QHP through an Exchange for which APTC is paid, a reconciliation is required by 26 U.S.C. 36B(f) following the end of the coverage year. The reconciliation requires the enrolling individual (the taxpayer) to compare the total amount of APTC paid on behalf of the taxpayer or a family member of the taxpayer for the year of coverage to the total amount of PTC allowed for the year of coverage, based on household circumstances shown on the Federal income tax return. If the amount of a taxpayer's PTC exceeds the APTC paid on behalf of the taxpayer, the difference reduces the taxpayer's tax liability for the year of coverage or results in a refund to the extent it exceeds the taxpayer's tax liability. If the APTC exceeds the PTC allowed, the taxpayer must increase his or her tax liability for the year of coverage by the difference, subject to certain limitations in statute and regulation.

Section 1331(e)(2) of the ACA specifies that an individual eligible for the BHP may not be treated as a ''qualified individual'' under section 1312 of the ACA who is eligible for enrollment in a QHP offered through an Exchange. We are defining ''eligible for the BHP'' to mean anyone for whom the State agency or the Exchange assesses or determines, based on the single streamlined application or renewal form, as eligible for enrollment in the BHP. Because enrollment in a QHP is a requirement for individuals to receive APTC, individuals determined or assessed as eligible for a BHP are not eligible to receive APTC for coverage in the Exchange. Because they do not receive APTC, BHP enrollees are not subject to the same income reconciliation as Exchange enrollees.

Nonetheless, there may still be differences between a BHP enrollee's household income reported at the beginning of the year and the actual household income over the year. These may include small changes (reflecting changes in hourly wage rates, hours worked per week, and other fluctuations in income during the year) and large changes (reflecting significant changes

[18] *See* Table IV A1 from the 2020 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, available at *https://www.cms.gov/files/document/2020-medicare-trustees-report.pdf.*

in employment status, hourly wage rates, or substantial fluctuations in income). There may also be changes in household composition. Thus, we believe that using unadjusted income as reported prior to the BHP program year may result in calculations of estimated PTC that are inconsistent with the actual household incomes of BHP enrollees during the year. Even if the BHP adjusts household income determinations and corresponding claims of Federal payment amounts based on household reports during the year or data from third-party sources, such adjustments may not fully capture the effects of tax reconciliation that BHP enrollees would have experienced had they been enrolled in a QHP through an Exchange with APTC.

Therefore, in accordance with current practice, we are finalizing our proposal to include in Equation 1 an adjustment, the IRF, that will account for the difference between calculating estimated PTC using: (a) household income relative to FPL as determined at initial application and potentially revised mid-year under § 600.320, for purposes of determining BHP eligibility and claiming Federal BHP payments; and (b) actual household income relative to FPL received during the plan year, as it would be reflected on individual Federal income tax returns. This adjustment will seek prospectively to capture the average effect of income reconciliation aggregated across the BHP population had those BHP enrollees been subject to tax reconciliation after receiving APTC for coverage provided through QHPs. Consistent with the methodology used in past years, we will estimate reconciliation effects based on tax data for 2 years, reflecting income and tax unit composition changes over time among BHP-eligible individuals.

The OTA maintains a model that combines detailed tax and other data, including Exchange enrollment and PTC claimed, to project Exchange premiums, enrollment, and tax credits. For each enrollee, this model compares the APTC based on household income and family size estimated at the point of enrollment with the PTC based on household income and family size reported at the end of the tax year. The former reflects the determination using enrollee information furnished by the applicant and tax data furnished by the IRS. The latter would reflect the PTC eligibility based on information on the tax return, which would have been determined if the individual had not enrolled in the BHP. Consistent with prior years, we will use the ratio of the reconciled PTC to the initial estimation of PTC as the IRF in Equation (1) for estimating the PTC portion of the BHP payment rate.

We are finalizing our proposal to distinguish between the IRF for Medicaid expansion States and non-Expansion States to remove data for those with incomes under 138 percent of FPL for Medicaid expansion States. This is the same approach that we finalized in the 2021 and 2022 final BHP Payment Notices. Therefore, we proposed to set the value of the IRF for States that have expanded Medicaid equal to the value of the IRF for incomes between 138 and 200 percent of FPL and the value of the IRF for States that have not expanded Medicaid equal to the value of the IRF for incomes between 100 and 200 percent of FPL. This gives an IRF of 100.66 percent for States that have expanded Medicaid and 101.63 percent for States that have not expanded Medicaid for program year 2023. Both current States operating a BHP have expanded Medicaid eligibility, and therefore we finalize the value of the IRF to be 100.66 percent.

We will use this value for the IRF in Equation (1) for calculating the PTC portion of the BHP payment rate.

7. Section 1332 Waiver Factor (WF)

Section 1332 of the ACA permits States to apply for a waiver from certain ACA requirements to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance coverage while retaining the basic protections of the ACA. Section 1332 of the ACA authorizes the Secretary of HHS and the Secretary of the Treasury (collectively, the Secretaries) to approve a State's request to waive all or any of the following requirements falling under their respective jurisdictions for health insurance coverage within a State for plan years beginning on or after January 1, 2017: (1) Part I of subtitle D of Title I of the ACA (relating to the establishment of QHPs); (2) Part II of subtitle D of Title I of the ACA (relating to consumer choices and insurance competition through Health Benefit Exchanges); (3) Section 1402 of the ACA (relating to reduced cost sharing for individuals enrolling in QHPs); and (4) Sections 36B (relating to refundable credits for coverage under a QHP), 4980H (relating to shared responsibility for employers regarding health coverage), and 5000A (relating to the requirement to maintain minimum essential coverage) of the Internal Revenue Code (Code).

Under section 1332 of the ACA, the Secretaries may exercise their discretion to approve a request for a section 1332 waiver only if the Secretaries determine that the proposal for the section 1332 waiver meets the following four requirements, referred to as the statutory guardrails: (1) The proposal will provide coverage that is at least as comprehensive as coverage defined in section 1302(b) of the ACA and offered through Exchanges established under title I of the ACA, as certified by the Office of the Actuary of CMS, based on sufficient data from the State and from comparable States about their experience with programs created by the ACA and the provisions of the ACA that would be waived; (2) the proposal will provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable for the State's residents as would be provided under title I of the ACA; (3) the proposal will provide coverage to at least a comparable number of the State's residents as would be provided under title I of the ACA; and (4) the proposal will not increase the Federal deficit.[19]

The Secretaries retain their discretionary authority under section 1332 of the ACA to deny waivers when appropriate given consideration of the application as a whole, even if an application meets the four statutory guardrails. Eighteen (18) States have approved section 1332 waivers for plan year 2023.[20]

Section 1332(a)(3) of the ACA directs the Secretaries to pay pass-through funding to the State for the purpose of implementing the State's section 1332 waiver. Under an approved section 1332 waiver, a State may receive pass-through funding associated with the resulting reductions in Federal spending on Exchange financial assistance (PTC, CSRs, and small business tax credits (SBTC)) consistent with the statute and reduced as necessary to ensure deficit neutrality. These payments are made in compliance with the applicable waiver plans, the specific terms and conditions governing the waiver, and accompanying statutory and regulatory requirements. Specifically, section 1332(a)(3) of the ACA provides that pass-through funding shall be paid to States for purposes of implementing the States' waiver plans. The specific impacts of the waivers on premiums and PTCs vary across States and plan years, depending, in part, on the State's approved section 1332 waiver plan and

[19] See section 1332(b)(1)(A) through (D) of the ACA, 45 CFR 155.1308(f)(3)(iv)(A) through (D), and 31 CFR 33.108(f)(3)(iv)(A) through (D).

[20] See the CMS section 1332 waiver website for information on approved waivers: *https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-*.

the design of the State's program.[21] The regulations at 31 CFR 33.122 and 45 CFR 155.1322 specify that pass-through funding amounts will be calculated annually by the Departments for States with approved waivers.[22] Additionally, section 1332(a)(4)(B)(v) of the ACA requires that the Secretaries issue regulations that provide a process for periodic evaluations by the Secretaries of the program under the waiver.[23] As implemented by the Departments, the periodic evaluations include evaluation of pass-through funding and associated reporting and methodologies. Information on the pass-through funding amounts is made available publicly on the CMS website.[24]

For a State that operates a BHP and an approved section 1332 waiver, the Federal BHP can have an impact on section 1332 waiver pass-through funding for that State. For example, the existence of a Federal BHP impacts aggregate PTC amounts in the State because BHP moves some individuals, who would otherwise be eligible for PTC, out of Exchange coverage. Similarly, as the section 1332 waiver may impact the benchmark QHP premiums and the PTCs in a State, the waiver may also have an effect on the calculation of Federal BHP payments in a State operating a BHP.

If the section 1332 waiver reduces premiums for eligible enrollees, then this can lead to a reduction in the amount of PTC available for eligible enrollees (in particular, if the second lowest-cost silver QHP premium is reduced). While this may not have an effect on particular subsidized QHP enrollees, as their share of the premium would remain unchanged, it would reduce the amount of Federal outlays for PTC. With respect to a State's approved section 1332 waiver, the amount of Federal pass-through funding would equal the difference between (1) the amount, determined annually by the Secretaries, of PTC under section 36B of the Code, the SBTC under section 45R of the Code, or CSRs under part I of subtitle E of the ACA (collectively referred to as Exchange financial assistance) that individuals and small employers in the State would otherwise be eligible for had the State not received approval for its section 1332 waiver and (2) the amount of Exchange financial assistance that individuals and small employers are eligible for with the approved section 1332 waiver in place. The section 1332 waiver pass-through amount would not be increased to account for any savings or decreases in Federal spending other than the reduction in Exchange financial assistance. This pass-through amount for the section 1332 waiver would be reduced by any net increase in Federal spending or net decrease in Federal revenue if necessary to ensure deficit neutrality. The State must use this pass-through funding only for purposes of implementing the plan associated with the State's approved section 1332 waiver. Therefore, in States that operate only an approved section 1332 waiver, the net expected Federal spending is the same, even though the amount of PTC paid by the Federal government is lower.

However, for a State that operates a BHP and a section 1332 waiver, a reduction in the expected Federal PTC payments due to the operation of the waiver leads directly to a reduction in Federal BHP funding to the State under the current BHP methodology. The amount of PTC and CSRs individuals are eligible for in the Exchange is dependent on the cost of the second lowest cost silver plan premium, and the cost of the second lowest cost silver plan premium is the basis for determining the amount of Federal funding for its BHP program. Therefore, a reduction in second lowest cost silver plan premium due to a section 1332 waiver, also reduces the Federal BHP payment. These reductions may be substantial. For example, in Minnesota in 2021, the State's section 1332 waiver resulted in a State-wide average premium reduction of 21.3 percent compared to without the waiver. This led to a similar reduction in PTC paid, and thus a similar reduction in Federal BHP funding. While the PTC allowed for persons eligible for subsidized coverage in the Exchange is lower with the section 1332 waiver in place, the reduction in premiums means that the net benefit to those individuals has not decreased—rather, Federal funding has been shifted from PTC in part to pass-through payments made to the State.

On January 28, 2021, President Biden issued Executive Order (E.O.) 14009 directing HHS, and the heads of all other executive departments and agencies with authorities and responsibilities related to Medicaid and the ACA, to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions to determine whether such agency actions are inconsistent with the policy set forth in section 1 of E.O. 14009 to protect and strengthen the ACA.[25] As part of this review, we considered the impact of approved section 1332 waivers on Federal BHP funding and vice versa in States that elect to operate both a BHP and an approved section 1332 waiver, including the impact in Minnesota, as previously discussed.

We determined it is appropriate to account for the impact of an approved section 1332 waiver when calculating Federal BHP payments. This is necessary for consistency with E.O. 14009 and this Administration's goal of protecting and strengthening the ACA and making high-quality, affordable health care accessible for every American. We believe that it is appropriate to consider the amount of pass-through funding associated with the section 1332 waiver as part of the PTC for the purpose of determining the BHP payments. As described previously, while the PTC allowed may be reduced under the section 1332 waiver, the benefit to the persons eligible for such subsidized coverage has not decreased. Considering the section 1332 pass-through funding as part of the PTC for purposes of determining the BHP payment also counteracts the reduction in Federal BHP funding for States that lawfully exercise the flexibility Congress provided to implement both of the alternative State programs under sections 1331 and 1332 of the ACA. Therefore, we are finalizing our proposal to add the section 1332 WF for the 2023 BHP payment methodology. This factor will be calculated as the ratio of (1) the second lowest cost silver plan premium that would have been in place without the waiver in place for the plan year to (2) the second lowest cost silver plan in place with the waiver in place for the plan year, as determined for the purposes of calculating the section 1332 waiver pass-through payment.[26] This factor will be

[21] For example, some State reinsurance programs under a section 1332 waiver have reduced Statewide average QHP premiums by 4 percent to 40 percent compared to what premiums would have been without the waiver. See Data Brief on Section 1332 waivers: State-based reinsurance programs available here *https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-Data-Brief-Aug2021.pdf*.

[22] See section 1332(a)(3) of the ACA. See also Patient Protection and Affordable Care Act; Updating Payment Parameters and Improving Health Insurance Markets for 2022 and Beyond; Final Rule, 86 FR 53412 at 53482–53483 (Sep 27, 2021).

[23] See 31 CFR 33.128 and 45 CFR 155.1328.

[24] See the CMS section 1332 website for information on pass-through funding here: *https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-*.

[25] 86 FR 7793 (February 2, 2021).

[26] Office of Tax Analysis, Department of Treasury, ''Method for Calculation of Section 1332 Reinsurance Waiver 2021 Premium Tax Credit Pass-through Amounts,'' March 2021.

calculated specific to each State and geographic area, to the extent that the factor may vary across geographic areas. The second lowest cost silver plan premiums with and without the waiver, as provided by the State as part of the section 1332 waiver information submitted to the Secretaries, will be reviewed by CMS and used to calculate the factor. In the event that the State's section 1332 waiver second lowest cost silver plan with- and without-waiver information is not available prior to the calculation of the Federal BHP payments in the fall prior to the start of the BHP program year, we are finalizing our proposal to temporarily use values from the prior year's waiver reporting, and then retroactively update the payment rates and payments once the values for the applicable plan year are known. In the case that prior-year data is not available, such as in the case of a new waiver or waiver amendment that could delay the timeline by which the State would receive BHP funding, we are finalizing our proposal to initially calculate the rates without adjustment for the section 1332 WF, and then to retroactively adjust payment rates and payments using the updated waiver data once it becomes available.[27]

E. State Option To Use Prior Program Year QHP Premiums for BHP Payments

In the interest of allowing States greater certainty in the total BHP Federal payments for a given plan year, we have given States the option to have their final Federal BHP payment rates calculated using a projected adjusted reference premium (that is, using premium data from the prior program year multiplied by the premium trend factor (PTF), as described in Equation (2b)). We will require States to make their election to have their final Federal BHP payment rates calculated using a projected adjusted reference premium by 60 days after the publication of this final rule.

With the addition of the section 1332 WF, there is the possibility that using the previous year's QHP premiums multiplied by the PTF could lead to unexpected results if there are significant changes to the State's approved section 1332 waiver, including changes that could occur at the start or the end of the waiver. For example, if a State were to implement a section 1332 waiver in 2023 that lowered premiums significantly, and the State then chose to use the prior year's premiums (that is, 2022 plan year premiums) multiplied by the PTF, this could lead to BHP payment well in excess of what would have been paid in the Exchanges when the WF is added to the methodology. Similarly, if a State were to end its section 1332 waiver and choose to use the prior year's premiums, the BHP payment could be less than what would otherwise be expected.

We are finalizing our proposal that in the following cases, the current year QHP premiums would have to be used for calculating BHP payments with regard to section 1332 waivers: (1) A State implements a new section 1332 waiver that begins at the start of the BHP program year; (2) a State ends a section 1332 waiver in the year prior to the start of the BHP program year; or (3) the percentage difference between the with and without waiver premiums used to determine the section 1332 waiver pass-through funding amount (and used to determine the WF) changes by 5 or more percentage points from the prior year. The percentage difference would be measured based on the enrollment-weighted average of the with and without waiver premiums. We believe that these three scenarios (the start of a new waiver, the end of a waiver, and a significant change to a waiver) reflect all relevant scenarios in which changes to a section 1332 waiver would lead to a significant error in the calculation of BHP payments if the prior year premiums were used in the BHP payment methodology. We believe that the requirement to use the current year QHP premiums in these limited circumstances would avoid an incorrect calculation of BHP payments due to changes related to the section 1332 waiver.

For Equation (2b), we will define the PTF, with minor changes in calculation sources and methods, as follows:

PTF: In the case of a State that would elect to use the 2022 premiums as the basis for determining the 2023 BHP payment, it would be appropriate to apply a factor that would account for the change in health care costs between the year of the premium data and the BHP program year. This factor would approximate the change in health care costs per enrollee, which would include, but not be limited to, changes in the price of health care services and changes in the utilization of health care services. This would provide an estimate of the adjusted monthly premium for the applicable second lowest cost silver plan that would be more accurate and reflective of health care costs in the BHP program year.

For the PTF we are finalizing our proposal to use the annual growth rate in private health insurance expenditures per enrollee from the National Health Expenditure (NHE) projections, developed by the Office of the Actuary in CMS (*https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected*). Based on these projections, we are finalizing our proposal that the PTF be 4.6 percent for BHP program year 2023.

We note that the increase in premiums for QHPs from 1 year to the next may differ from the PTF developed for the BHP funding methodology for several reasons. In particular, we note that the second lowest cost silver plan may be different from 1 year to the next. This may lead to the PTF being greater than or less than the actual change in the premium of the second lowest cost silver plan.

F. State Option To Include Retrospective State-Specific Health Risk Adjustment in Certified Methodology

To determine whether the potential difference in health status between BHP enrollees and consumers in an Exchange would affect the PTC and risk adjustment payments that would have otherwise been made had BHP enrollees been enrolled in coverage through an Exchange, we will provide States implementing the BHP the option to propose and to implement, as part of the certified methodology, a retrospective adjustment to the Federal BHP payments to reflect the actual value that would be assigned to the population health factor (or risk adjustment) based on data accumulated during that program year for each rate cell.

We acknowledge that there is uncertainty for this factor due to the lack of available data to analyze potential health differences between the BHP and QHP populations, which is why, absent a State election, we are finalizing our proposal to use a value for the PHF (see section III.D.3. of this final rule) to determine a prospective payment rate which assumes no difference in the health status of BHP enrollees and QHP enrollees. There is considerable uncertainty regarding whether the BHP enrollees will pose a greater risk or a lesser risk compared to the QHP enrollees, how to best measure such risk, the potential effect such risk would have had on PTC, and risk adjustment that would have otherwise been made had BHP enrollees been enrolled in coverage through an Exchange. However, to the extent that a State would develop an approved protocol to collect data and effectively measure the relative risk and the effect on Federal payments of PTCs and CSRs, we are finalizing our proposal to permit a retrospective adjustment that will

[27] 42 CFR 600.610(c)(2)(iii).

measure the actual difference in risk between the two populations to be incorporated into the certified BHP payment methodology and used to adjust payments in the previous year.

For a State electing the option to implement a retrospective population health status adjustment as part of the BHP payment methodology applicable to the State, we are finalizing our proposal to require the State to submit a proposed protocol to CMS, which would be subject to approval by us and would be required to be certified by the Chief Actuary of CMS, in consultation with the OTA. We are finalizing our proposal to apply the same protocol for the population health status adjustment as what is set forth in guidance in ''Considerations for Health Risk Adjustment in the Basic Health Program in Program Year 2015'' (*https://www.medicaid.gov/sites/default/files/2019-11/risk-adjustment-and-bhp-white-paper.pdf*). We proposed to require a State to submit its proposed protocol for the 2022 program year by the later of August 1, 2022 or 60 days after the publication of this final rule. Because this final rule is being published within 60 days of August 1, 2022, we are finalizing that a State will be required to submit its proposed protocol for the 2022 program year by 60 days after the publication of this final rule. This submission will also need to include descriptions of how the State would collect the necessary data to determine the adjustment, including any contracting contingences that may be in place with participating standard health plan issuers. We will provide technical assistance to States as they develop their protocols, as requested. We proposed that we must approve the State's protocol by December 31, 2022, for the 2023 program year. Due to the publication date of this final rule, we are finalizing that we will approve the State's protocol within 50 days of receipt of the proposed protocol. Finally, the State will be required to complete the population health status adjustment at the end of the program year based on the approved protocol. After the end of the program year, and once data is made available, we will review the State's findings, consistent with the approved protocol, and make any necessary adjustments to the State's Federal BHP payment amounts. If we determine the Federal BHP payments were less than they would have been using the final adjustment factor, we will apply the difference to the State's next quarterly BHP trust fund deposit. If we determine that the Federal BHP payments were more than they would have been using the final reconciled factor, we will subtract the difference from the next quarterly BHP payment to the State.

IV. Revisions to Basic Health Program Regulations

We proposed two changes related to the timing of publication of the BHP payment methodologies under 42 CFR 600.610. Specifically, we proposed to revise § 600.610(a)(1) to provide for issuance of payment notices that may be effective for only one or multiple program years, as determined by and subject to the discretion of the Secretary, beginning with the 2023 BHP payment methodology and then going forward. In addition, we proposed at § 600.610(a)(1) and (b)(1) to change the schedule of publication dates for the proposed and final BHP payment notices. As stated in section II.H. of this final rule, we received several comments in support of these proposed changes. Therefore, we are finalizing these regulations as proposed, with minor formatting edits to separate § 600.610(a)(1) into § 600.610(a)(1)(i) and (ii) for increased clarity.

We also proposed to revise § 600.610(c)(2)(ii) such that a State's payment amount may be retroactively revised due to a mathematical error in the development or application of the BHP funding methodology. We discussed that CMS recently became aware of an error in calculating the IRF for program year 2019, resulting in an underpayment of Federal funds to States for their BHPs. In reviewing the model used to calculate the IRF, CMS and OTA found an error in the computation of the IRF. Working with OTA, we developed a new value for the IRF for 2019. Previously, the IRF for the 2019 BHP payment methodology was 98.03 percent. The corrected value for the IRF for program year 2019 was recalculated as the median of the impact of income reconciliation on PTC for persons with incomes between 100 percent and 200 percent of FPL (102.36 percent) and the impact for persons with incomes between 133 percent and 200 percent of FPL (101.66 percent), which is 102.01 percent. Using the median of the two values is the same approach as we used to calculate the original IRF value in 2019, and the difference between the values is attributable to a mathematical error made during the development of the BHP payment methodology for program year 2019. As stated in section II.H. of this final rule, we received comments in support of this regulation change, which would also allow us to issue corrected payments to states for 2019. We are finalizing this regulation change as proposed. We will issue further guidance to states on the timing of receiving the updated payments for 2019.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a ''collection of information'' requirement is submitted to the Office of Management and Budget (OMB) for review and approval. For the purpose of the PRA and this section of the preamble, collection of information is defined under 5 CFR 1320.3(c) of the PRA's implementing regulations.

To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In the May 25, 2022 BHP proposed rule (87 FR 31815), we solicited public comment on each of these issues for that rule's proposed collection of information requirements and burden estimates. We did not receive such comments and are finalizing those requirements and burden estimates as proposed. The finalized requirements and burden estimates follow.

A. Wage Estimates

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' (BLS) May 2021 National Occupational Employment and Wage Estimates for our salary estimates (*https://www.bls.gov/oes/current/oes_nat.htm*). In this regard, Table 2 presents BLS' mean hourly wage, our estimated cost of fringe benefits and overhead, and our adjusted hourly wage.

TABLE 2—NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

Occupation title	Occupation code	Mean hourly wage ($/hr)	Fringe benefits and overhead ($/hr)	Adjusted hourly wage ($/hr)
Business Operations Specialists	13–1000	38.64	38.64	77.25
General and Operations Managers	11–1021	55.41	55.41	110.82

To derive the average cost estimates, we also adjusted BLS' mean hourly wage by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Therefore, we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

B. Information Collection Requirements (ICRs)

When ready, the following changes will be submitted to OMB for approval under control number 0938–1218 (CMS–10510). Consistent with the May 25, 2022 (87 FR 31815) proposed rule, we are in the process of reinstating that control number as our previous approval was discontinued on August 31, 2017, based on our estimated number of respondents. We are reinstating the control number based on 5 CFR 1320.3(c)(4)(i) using the standard non-rule PRA process which includes the publication of 60- and 30-day **Federal Register** notices. In addition to the reinstatement, we are also in the process of proposing changes that are associated with the March 12, 2014 (79 FR 14112) BHP final rule that have not previously received PRA approval. The following finalized burden estimates are also included in our reinstatement effort. The 60-day notice published in the **Federal Register** on August 4, 2022 (87 FR 47750). The collection of information request will be submitted to OMB for approval subsequent to the publication of the 30-day **Federal Register** notice.

1. ICRs Regarding the Submission of Estimated and Actual Quarterly Enrollment Data

In sections II.A. and III.B. of this final rule, we finalized that a State that is approved to implement a BHP must provide CMS with an estimate of the number of BHP enrollees its projects will enroll in the upcoming BHP program quarter, by applicable rate cell, prior to the first quarter and each subsequent quarter of program operations until after actual enrollment data is available. Enrollment data must be submitted by age range (if applicable), geographic area, coverage status, household size, and income range.

We estimate that it will take a business operations specialist 10 hours at $77.25/hr and a general manager 2 hours at $110.82/hr to compile and submit the quarterly estimated enrollment data to CMS. For 2023, we estimate that two States will operate a BHP and will submit the required estimated enrollment data to CMS. In aggregate, we estimate an annual burden of 96 hours (2 States × 12 hr/response × 4 responses/yr) at a cost of $7,953 [2 States × 4 responses/yr ((10 hr × $77.25/hr) + (2 hr × $110.82/hr)).

In sections II.A. and III.B. of this final rule, we also finalized that, following each BHP program quarter, a State operating a BHP must submit actual enrollment data to CMS. Actual enrollment data must be based on individuals enrolled for the quarter who the State found eligible and whose eligibility was verified using eligibility and verification requirements as agreed to by the State in its applicable BHP Blueprint for the quarter that enrollment data is submitted. Actual enrollment data must include a personal identifier, date of birth, county of residence, Indian status, family size, household income, number of persons in the household enrolled in BHP, family identifier, months of coverage, plan information, and any other data required by CMS to properly calculate the payment. This may include the collection of data related to eligibility for other coverage, marital status (for calculating household composition), or more precise residence location.

We estimate that it will take a business operations specialist 100 hours at $77.25/hr and a general manager 10 hours at $110.82/hr to compile and submit the quarterly actual enrollment data to CMS. For 2023, we estimate that two States will operate a BHP and will submit the required actual enrollment data to CMS. In aggregate, we estimate an annual burden of 880 hours (2 States × 110 hr/response × 4 responses/yr) at a cost of $70,666 [2 States × 4 responses/yr ((100 hr × $77.25/hr) + (10 hr × $110.82/hr)).

2. ICRs Regarding Submission of Qualified Health Plan Data

In section III.C. of this final rule, we finalized that States operating an SBE in the individual market must provide certain data, including premiums for second lowest cost silver plans, by geographic area, for CMS to calculate the Federal BHP payment rates in those States. We proposed that States operating BHPs interested in obtaining the applicable 2023 program year Federal BHP payment rates for its State must submit the data to CMS by October 15, 2022. Because we are finalizing this rule after October 15, 2022, we have changed the submission deadline from ''October 15, 2022'' to read ''within 30 days of publication of this final rule.''

We estimate that it will take a business operations specialist 20 hours at $77.25/hr and a general manager 2 hours at $110.82/hr to compile and submit the required data to CMS. In aggregate, we estimate an annual burden of 44 hours (2 States × 22 hr/response) at a cost of $3,533 [2 States × ((20 hr × $77.25/hr) + (2 hr × $110.82/hr))].

C. Summary of Requirements and Annual Burden Estimates

TABLE 3—SUMMARY OF REQUIREMENTS AND ANNUAL BURDEN ESTIMATES

Section under Title 42 of the CFR	OMB control No. (CMS ID No.)	Number of respondents	Total responses	Time per response (hr)	Total time (hr)	Labor cost ($/hr)	Total cost ($)
600.610 (projected number of BHP enrollees)	0938–1218 (CMS–10510)	2	8	12	96	Varies	7,953
600.610 (actual number of BHP enrollees)	0938–1218 (CMS–10510)	2	8	110	880	Varies	70,666
600.610 (qualified health plan data)	0938–1218 (CMS–10510)	2	2	22	44	Varies	3,533

TABLE 3—SUMMARY OF REQUIREMENTS AND ANNUAL BURDEN ESTIMATES—Continued

Section under Title 42 of the CFR	OMB control No. (CMS ID No.)	Number of respondents	Total responses	Time per response (hr)	Total time (hr)	Labor cost ($/hr)	Total cost ($)
Total		2	18	Varies	1,020	Varies	82,152

VI. Regulatory Impact Analysis

A. Statement of Need

Section 1331 of the ACA (42 U.S.C. 18051) requires the Secretary to establish a BHP, and section 1331(d)(1) specifically provides that if the Secretary finds that a State meets the requirements of the program established under section 1331(a) of the ACA, the Secretary shall transfer to the State Federal BHP payments described in section 1331(d)(3) of the ACA. This final rule provides for the funding methodology to determine the Federal BHP payment amounts required to implement these provisions for program year 2023.

B. Overall Impact

We have examined the impacts of this rule as required by E.O. 12866 on Regulatory Planning and Review (September 30, 1993), E.O. 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (Pub. L. 96354, enacted September 19, 1980), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, enacted March 22, 1995), E.O. 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) (having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

A regulatory impact analysis (RIA) must be prepared for major rules with significant regulatory action(s) or with economically significant effects ($100 million or more in any 1 year). Based on our estimates, OMB's Office of Information and Regulatory Affairs has determined this rulemaking is ''economically significant'' as measured by the $100 million threshold. Accordingly, we have prepared a Regulatory Impact Analysis that to the best of our ability presents the costs and benefits of the rulemaking.

C. Detailed Economic Analysis

The aggregate economic impact of this final payment methodology is estimated to be $357 million in transfers for calendar years (CY) 2022 and 2023 (measured in real 2022 dollars), which would be an increase in Federal payments to the State BHPs. For the purposes of this analysis, we have assumed that two States would implement BHPs in 2023. This assumption is based on the fact that two States have established a BHP to date, and we do not have any indication that additional States may implement a BHP in CY 2023. Of these two States, only one (Minnesota) currently has an approved section 1332 waiver.

Projected BHP enrollment and expenditures under the previous payment methodology were calculated using the most recent 2022 QHP premiums and State estimates for BHP enrollment. We projected enrollment for 2023 using the projected increase in the number of adults in the U.S. from 2022 to 2023 (0.4 percent), and we projected premiums using the NHE projection of premiums for private health insurance (4.6 percent). Prior to any changes made in the 2023 BHP payment methodology, Federal BHP expenditures are projected to be $8,340 million in 2023, which are described in detail below. This projection serves as our baseline scenario when estimating the net impact of the 2023 methodology on Federal BHP expenditures.

The incorporation of the WF is the most significant change in this final 2023 payment methodology from the final 2022 payment methodology. To calculate the impact of adding the WF to the methodology, we took the following steps. First, we calculated the estimated value of the WF using the most recently available section 1332 waiver premium data for 2021.[28] In Minnesota, the average percentage difference between the ''with waiver'' second lowest cost silver plan premiums and the ''without waiver'' second lowest cost silver plan premiums for 2021 is 27.3 percent (calculated as the average of the ''without waiver'' second lowest cost silver plan premium divided by the ''with waiver'' second lowest cost silver plan premium, averaged across all rating areas). We then increased the RPs in the model for Minnesota by 27.3 percent, which represents the impact of the WF. The resulting Federal BHP payments were 28.2 percent higher incorporating this adjustment. The projected BHP expenditures after these changes are $8,154 million, which is the sum of the prior estimate ($8,021 million) and the impacts of the changes to the methodology ($133 million). For Minnesota, estimated payments would increase from $470 million to $603 million in 2023.

[28] *https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-State-Specific-Premium-Data-Feb-2021.xlsx.*

TABLE 4—ESTIMATED FEDERAL IMPACTS FOR THE BASIC HEALTH PROGRAM 2023 PAYMENT METHODOLOGY

[Millions of 2022 dollars]

Projected Federal BHP Payments under 2022 Final Methodology	$8,021
Projected Federal BHP Payment under 2023 Final Methodology	8,154
Federal costs	133

Totals may not add due to rounding.

The provisions of this final methodology are designed to determine the amount of funds that will be transferred to States offering coverage through a BHP rather than to individuals eligible for Federal financial assistance for coverage purchased on the Exchange. We are uncertain what the total Federal BHP payment amounts to States will be as these amounts will vary from State to State due to the State-specific factors and conditions. In this case, the exact value of the WF and the effects of the section 1332 waiver in 2023 are currently unknown. The value of the WF could be higher or lower than estimated here as a result. In addition, projected BHP expenditures and enrollment may also differ from our current estimates, which may also lead to costs being higher or lower than estimated here.

In addition, the final methodology will allow for a retrospective correction to the BHP payment methodology for errors that occurred during the development or application of the BHP funding methodology. For 2019, we are finalizing our proposal to correct the value of the IRF from 98.03 percent to 102.01 percent. Actual Federal BHP expenditures in 2019 were $5,591 million, including payment reconciliations that have occurred as of March 2022. Calculating the payments with the corrected IRF value increases the payments by about $224 million. The actual amount may differ as we continue to reconcile 2019 payments based on actual enrollment.

TABLE 5—ESTIMATED FEDERAL IMPACTS FOR THE BASIC HEALTH PROGRAM 2023 PAYMENT METHODOLOGY TO APPLY RETROSPECTIVE CORRECTIONS

[Millions of 2022 dollars]

Projected Federal BHP Payments under 2022 Final Methodology	$5,591
Projected Federal BHP Payment under 2023 Final Methodology	5,815
Federal costs	224

Totals may not add due to rounding.

The total estimated impact of this final methodology is $357 million ($133 million for the addition of the section 1332 waiver factor, and $224 million for the correction to the income reconciliation factor for 2019).

D. Alternative Approaches

We considered several alternatives in developing the BHP payment methodology for 2023, and we discuss some of these alternatives below.

We considered alternatives as to how to calculate the PAF in the final methodology for 2023. The value for the PAF is 1.188, which is the same as was used for 2018 through 2022. We believe it would be difficult to obtain the updated information from QHP issuers comparable to what was used to develop the 2018 factor, because QHP issuers may not distinctly consider the impact of the discontinuance of CSR payments on the QHP premiums any longer. We do not have reason to believe that the value of the PAF would change significantly between program years 2018 and 2023. We are continuing to consider whether or not there are other methodologies or data sources we may be able to use to calculate the PAF.

We also considered alternatives as how to calculate the MTSF in the final methodology for 2023. Given the changes made to the determination of PTC for 2022 in the ARP, we are not including the MTSF in the 2023 payment methodology, as described in section III.D.6. of this final rule.

We also considered whether to continue to provide States the option to develop a protocol for a retrospective adjustment to the PHF as we did in previous payment methodologies. We believe that continuing to provide this option is appropriate and likely to improve the accuracy of the final payments.

We also considered whether to require the use of the program year premiums to develop the Federal BHP payment rates, rather than allow the choice between the program year premiums and the prior year premiums trended forward. We believe that the payment rates can still be developed accurately using either the prior year QHP premiums or the current program year premiums and that it is appropriate to continue to provide the States these options.

We also considered whether or not to include a factor to address the impacts of State Innovation Waivers. In previous methodologies, we have not addressed the potential impacts of State Innovation Waivers on BHP payments. We believe it is appropriate to include such a factor for this payment methodology. We also considered other approaches to calculating the factor, including whether or not to use each State's experience separately or to look at the impacts across all States. We believe it is more accurate to use each State's experience separately, as applicable.

Many of the factors in this final methodology are specified in statute; therefore, for these factors we are limited in the alternative approaches we could consider. We do have some choices in selecting the data sources used to determine the factors included in the methodology. Except for State-specific RPs and enrollment data, we will use national rather than State-specific data. This is due to the lack of currently available State-specific data needed to develop the majority of the factors included in the methodology. We believe the national data will produce sufficiently accurate determinations of payment rates. In addition, we believe that this approach will be less burdensome on States. In many cases, using State-specific data would necessitate additional requirements on the States to collect, validate, and report data to CMS. By using national data, we are able to collect data from other sources and limit

the burden placed on the States. For RPs and enrollment data, we will use State-specific data rather than national data, as we believe State-specific data will produce more accurate determinations than national averages. Our responses to public comments on these alternative approaches are in section II of this final rule.

E. Accounting Statement and Table

In accordance with OMB Circular A–4, Table 6 depicts an accounting statement summarizing the assessment of the transfers associated with these payment methodologies.

TABLE 6—ACCOUNTING STATEMENT: FEDERAL TRANSFERS TO STATES

[$ millions]

Category	Primary estimate	Low estimate	High estimate	Units		
				Year dollar	Discount rate (%)	Period covered
Annualized monetized transfers from Federal government to States	$180	$163	$197	2022	7	2022–2023
	179	162	196	2022	3	2022–2023

As required by OMB Circular A–4 (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf*), we have prepared an accounting statement in Table 6 showing the classification of the transfer payments from the Federal Government to States associated with the provisions of this final rule. Table 6 provides our best estimates of the transfer payments outlined in the section IV.C. of this final rule. These estimates assume that costs in 2022 could be 5 percent above and below the primary estimate (from $212 million to $235 million in 2022 dollars) and that costs in 2023 could be 18 percent above and below the primary estimate ($109 million to $156 million in 2022 dollars, which reflects a waiver factor that could be 5 percentage points higher or lower than assumed in the analysis).

F. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that no small entities will be impacted as that term is used in the RFA (include small businesses, nonprofit organizations, and small governmental jurisdictions). The great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the Small Business Administration definition of a small business (having revenues of less than $8.0 million to $41.5 million). Individuals and States are not included in the definition of a small entity. As its measure of significant economic impact on a substantial number of small entities, HHS uses a change in revenue of more than 3 to 5 percent. We do not believe that this threshold will be reached by the requirements in this final rule.

Because this methodology is focused solely on Federal BHP payment rates to States, it does not contain provisions that would have a direct impact on hospitals, physicians, and other health care providers that are designated as small entities under the RFA. Accordingly, we have determined that the methodology, like the previous methodology and the final rule that established the BHP program, will not have a significant economic impact on a substantial number of small entities. Therefore, the Secretary has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a methodology may have a significant economic impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. For the preceding reasons, we have determined that the methodology will not have a significant impact on a substantial number of small rural hospitals. Therefore, the Secretary has determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

G. Unfunded Mandates Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995 requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation, by State, local, or tribal governments, in the aggregate, or by the private sector. In 2022, that threshold is approximately $165 million. States have the option, but are not required, to establish a BHP. Further, the methodology would establish Federal payment rates without requiring States to provide the Secretary with any data not already required by other provisions of the ACA or its implementing regulations. Thus, the final payment methodology does not mandate expenditures by State governments, local governments, or tribal governments.

H. Federalism

E.O. 13132 establishes certain requirements that an agency must meet when it issues a final rule that imposes substantial direct effects on States, preempts State law, or otherwise has federalism implications. The BHP is entirely optional for States, and if implemented in a State, provides access to a pool of funding that would not otherwise be available to the State. Accordingly, the requirements of E.O. 13132 do not apply to this final rule.

I. Conclusion

We believe that this final BHP payment methodology is effectively the same methodology as finalized for 2022, with the exception of the addition of the WF. In addition, we are finalizing the proposal to update the regulation to clarify that errors in the application and the development of the methodology may be corrected retroactively. BHP payment rates may change as the values of the factors change, most notably the QHP premiums for 2022 or 2023. We do not anticipate this final methodology to have any significant effect on BHP enrollment in 2023.

In accordance with the provisions of E.O. 12866, this regulation was reviewed by the Office of Management and Budget.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on November 23, 2022.

List of Subjects in 42 CFR Part 600

Administrative practice and procedure, Health care, Health insurance, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 600 as set forth below:

PART 600—ADMINISTRATION, ELIGIBILITY, ESSENTIAL HEALTH BENEFITS, PERFORMANCE STANDARDS, SERVICE DELIVERY REQUIREMENTS, PREMIUM AND COST SHARING, ALLOTMENTS, AND RECONCILIATION

■ 1. The authority citation for part 600 continues to read as follows:

Authority: Section 1331 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148, 124 Stat. 119), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, 124 Stat 1029).

■ 2. Amend § 600.610—

■ a. By revising paragraphs (a)(1) and (b)(1); and

■ b. In paragraph (c)(2)(ii) by removing the phrase ''during the application of the BHP funding methodology'' and adding in its place the phrase ''during the application or development of the BHP funding methodology''.

The revisions read as follows:

§ 600.610 Secretarial determination of BHP payment amount.

(a) * * *

(1) Beginning in FY 2015, the Secretary will determine and publish in a **Federal Register** document the BHP payment methodology for the next calendar year or, beginning in calendar year 2022, for multiple calendar years. Beginning in calendar year 2023—

(i) In years in which the Secretary does not publish a new BHP methodology, the Secretary will update the values of factors needed to calculate the Federal BHP payments via sub regulatory guidance, as appropriate.

(ii) In years that the Secretary publishes a revised payment methodology, the Secretary will publish a proposed BHP payment methodology upon receiving certification from the Chief Actuary of CMS.

* * * * *

(b) * * *

(1) Beginning in calendar year 2023, in years that the Secretary publishes a revised payment methodology, the Secretary will determine and publish the final BHP payment methodology and BHP payment amounts in a **Federal Register** document.

* * * * *

Dated: December 12, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–27211 Filed 12–16–22; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 221214–0269]

RIN 0648–BL46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Amendment 50

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 50 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For red porgy, this final rule revises the sector annual catch limits (ACLs), commercial seasonal quotas, commercial trip limits, recreational bag and possession limits, recreational fishing season, and recreational accountability measures (AMs). In addition, Amendment 50 establishes a new rebuilding plan, and revises the acceptable biological catch (ABC), annual optimum yield (OY), and sector allocations. The purpose of this final rule and Amendment 50 is to end overfishing of red porgy, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

DATES: This final rule is effective January 19, 2023.

ADDRESSES: Electronic copies of Amendment 50, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-50-catch-level-adjustments-rebuilding-schedule-and-allocations-red-porgy/.*

FOR FURTHER INFORMATION CONTACT: Frank Helies, telephone: 727–824–5305, or email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery, which includes red porgy, is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that 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 minimize bycatch and bycatch mortality to the extent practicable.

On September 9, 2022, NMFS published a notice of availability for Amendment 50 and requested public comment (87 FR 55376). On September 26, 2022, NMFS published a proposed rule for Amendment 50 and requested public comment (87 FR 58302). NMFS approved Amendment 50 on December 7, 2022. The proposed rule and Amendment 50 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 50 and implemented by this final rule is described below.

In 1990, a stock assessment for red porgy was completed and NMFS determined that the stock was subject to overfishing and overfished. As a result of that stock status, through Amendment 4 to the FMP the Council established an initial rebuilding plan and a minimum size limit for red porgy (56 FR 56016, October 31, 1991). The rebuilding plan was put into effect in 1991 with a target time to rebuild of 10 years. The stock was again assessed in 1999 and again was determined to be subject to overfishing and overfished.

Through an emergency rule published in 1999, NMFS prohibited the harvest and possession of red porgy in or from the exclusive economic zone (EEZ) off the southern Atlantic states (64 FR 48324, September 3, 1999). NMFS subsequently extended the emergency rule to prohibit the harvest and possession of red porgy through August 28, 2000 (65 FR 10039, February 25, 2000).

The final rule to implement Amendment 12 to the FMP replaced the emergency rule and closed commercial harvest during the red porgy peak spawning season, reduced the commercial trip limit, and reduced the recreational bag limit (65 FR 51248, August 23, 2000). Amendment 12 also specified a new 18-year rebuilding plan, which began with the implementation of the emergency rule that prohibited harvest on September 3, 1999. The red porgy stock was assessed again in 2002, as the first stock in the South Atlantic to be assessed through the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 1). The SEDAR 1 assessment indicated the stock was overfished but not undergoing overfishing. Subsequent update assessments in 2006 and 2012 also resulted in the same stock status determinations as the 2002 SEDAR 1 assessment.

The most recent SEDAR stock assessment for South Atlantic red porgy (SEDAR 60) was completed in April 2020. The assessment included data through 2017 and incorporated the revised estimates for recreational catch from the Marine Recreational Information Program Fishing Effort Survey (MRIP FES), as discussed later in this final rule. The Council's Scientific and Statistical Committee (SSC) reviewed SEDAR 60 at their April 2020 meeting and found that the assessment was conducted using the best scientific information available, and was adequate for determining stock status and supporting fishing level recommendations. The findings of the assessment indicated that the South Atlantic red porgy stock is undergoing overfishing and is overfished. NMFS also determined that the red porgy stock has not made adequate progress towards rebuilding.

The findings of SEDAR 60 showed a declining trend in average recruitment throughout the time series reviewed in the assessment, and that red porgy has made little progress towards rebuilding, given the low recruitment in recent years. The projections within SEDAR 60 indicate the reduced ABCs would have only a very minor impact on stock rebuilding. If recruitment continues to be low, the productivity of the stock and the benchmark management reference points would need to be reevaluated. The red porgy stock is currently scheduled to be assessed again in 2025.

Following a notification from NMFS to a Council that a stock is undergoing overfishing and is overfished, the Magnuson-Stevens Act requires the Council to develop an FMP amendment with actions that immediately end overfishing and rebuild the affected stock. The Council developed Amendment 50 in response to the results of SEDAR 60.

In addition to the revisions to the commercial quotas and sector ACLs, modified red porgy management measures are needed to constrain commercial and recreational harvest to the proposed fishing levels. This final rule reduces commercial trip limits and recreational bag and possession limits, and implements a 2-month recreational fishing season. The Council intends that these actions will allow retention of red porgy over the longest period of time projected during the fishing year while preventing overfishing. This final rule also adjusts the recreational AMs to ensure they are effective at keeping recreational landings from exceeding the recreational ACL and correct for overages when they occur. This final rule and Amendment 50 do not adjust commercial AMs.

The Council determined that the actions in Amendment 50 will end overfishing of South Atlantic red porgy, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

Management Measures Contained in This Final Rule

This final rule revises the sector ACLs, commercial seasonal quotas, commercial trip limits, recreational bag and possession limits, recreational fishing season, and recreational AMs. All weights described in this final rule are in gutted weight, unless otherwise specified.

Total ACLs

As implemented through Regulatory Amendment 18 to the FMP, the current total ACL and annual OY for red porgy are equal to the current ABC of 328,000 lb (148,778 kg), round weight. In Amendment 50, the Council is revising the ABC based on SEDAR 60 and the recommendation of the SSC, and keeping the ABC, total ACL, and annual OY equal to each other.

This final rule revises the total ACL equal to the recommended ABC of 75,000 lb (34,019 kg), round weight, 72,115 lb (32,711 kg), gutted weight, for 2022; 81,000 lb (36,741 kg), round weight, 77,885 lb (35,328 kg), gutted weight, for 2023; 87,000 lb (39,463 kg), round weight, 83,654 lb (37,945 kg), gutted weight, for 2024; 91,000 lb (41,277 kg), round weight, 87,500 lb (39,689 kg), gutted weight, for 2025; and 95,000 lb (43,091 kg), round weight, 91,346 lb (41,434 kg), gutted weight, for 2026 and subsequent fishing years.

Sector Allocations and ACLs

Amendment 50 revises the commercial and recreational allocations for red porgy. The current sector ACLs for red porgy are based on the commercial and recreational allocations of the total ACL at 50.00 percent and 50.00 percent, respectively, and were established through Amendment 15B to the FMP (74 FR 58902, November 16, 2009).

The new red porgy sector allocations in Amendment 50 will result in commercial and recreational allocations of 51.43 percent and 48.57 percent, respectively. The Council determined the revised sector allocations by applying the allocation formula adopted through the Comprehensive ACL Amendment to the FMP, which is ACL = ((mean landings 2006–2008) * 0.5)) + ((mean landings 1986–2008) * 0.5), to the revised total ACL that includes updated recreational landings from the MRIP FES method.

Utilizing the revised allocation formula will incorporate revised recreational landings from the MRIP FES, which will result in a slight shift of allocation to the commercial sector. Although commercial fishing, compared to recreational fishing, tends to occur in deeper water, where mortality of discarded fish is greater, the Council reasoned that a slightly increased allocation to the commercial sector will potentially reduce the number of fish that are discarded if the commercial ACL is reached in-season and a sector closure becomes necessary, thus promoting conservation.

The commercial ACLs will be 37,089 lb (16,823 kg), for 2022; 40,056 lb (18,169 kg), for 2023; 43,023 lb (19,515 kg), for 2024; 45,001 lb (20,412 kg), for 2025; and 46,979 lb (21,309 kg), for 2026 and subsequent years.

The recreational ACLs will be 35,026 lb (15,888 kg), for 2022; 37,829 lb (17,159 kg), for 2023; 40,631 lb (18,430 kg), for 2024; 42,499 lb (19,277 kg), for 2025; and 44,367 lb (20,125 kg), for 2026 and subsequent years.

Regulatory Amendment 27 to the FMP established two commercial fishing seasons for red porgy with 30 percent of the commercial ACL allocated to Season 1 (January through April) and 70

percent allocated to Season 2 (May through December) (85 FR 4588, January 27, 2020). Any remaining commercial quota from Season 1 would be added to the commercial quota in Season 2. Any remaining quota from Season 2 would not be carried forward into the next fishing year. Amendment 50 and this final rule will not alter the current fishing seasons or commercial season ACL allocations.

Under Amendment 50, the commercial quotas in 2022 for Season 1 will be 11,127 lb (5,047 kg) and Season 2 will be 25,962 lb (11,776 kg); in 2023, Season 1 will be 12,017 lb (5,451 kg) and Season 2 will be 28,039 lb (12,718 kg); in 2024, Season 1 will be 12,907 lb (5,855 kg) and Season 2 will be 30,116 lb (13,660 kg); in 2025, Season 1 will be 13,500 lb (6,123 kg) and Season 2 will be 31,501 lb (14,289 kg); and for 2026 and subsequent years, Season 1 will be 14,094 lb (6,393 kg) and Season 2 will be 32,886 lb (14,917 kg).

Commercial Trip Limits

Amendment 13C to the FMP established the current commercial trip limit for red porgy of 120 fish from May 1 through December 31, with no harvest allowed from January 1 through April 30 (71 FR 55096, September 21, 2006). Regulatory Amendment 27 to the FMP removed the January 1 through April 30 spawning season commercial closure, and established the current 60 fish trip limit from January 1 through April 30, to reduce discarding of red porgy by the commercial sector during the early part of the fishing year. This final rule modifies the commercial trip limits for red porgy to be 15 fish for both Seasons 1 and 2.

The Council decided that under the revised 15-fish commercial trip limit, the lowest trip limit considered, commercial fishermen could retain an amount of red porgy over the longest amount of time during the fishing seasons, and this will increase the likelihood of red porgy remaining open to commercial harvest and available to consumers for as long as possible. Additionally, the Council expects the revised commercial trip limit to minimize discards of incidentally harvested red porgy when fishermen target other snapper-grouper species, such as gray triggerfish and vermilion snapper.

Recreational Bag and Possession Limits

The current recreational bag and possession limits for red porgy in the South Atlantic, specified by the final rule Amendment 13C to the FMP, are three per person per day, or three per person per trip, whichever is more restrictive. This final rule reduces the recreational bag and possession limits to one fish per person per day, or one fish per person per trip, whichever is more restrictive.

Given the substantial reduction in harvest needed to end red porgy overfishing immediately, and to increase the likelihood of rebuilding the stock, the Council selected the lowest bag limit considered in Amendment 50 to continue to allow recreational retention and help constrain harvest to the reduced recreational ACL.

Recreational Fishing Season

Recreational harvest of red porgy is currently allowed year-round until the recreational ACL is met or is projected to be met. This final rule establishes a recreational fishing season for red porgy where harvest will be allowed only from May 1 through June 30. The recreational sector will be closed annually from January 1 through April 30 and from July 1 through December 31. During the revised seasonal closures, the recreational bag and possession limits for red porgy will be zero.

Given the substantial reductions in harvest that are needed to address the determination that the stock is undergoing overfishing and overfished, shortening the time recreational fishing is allowed helps to reduce the risk that recreational catches will exceed the reduced sector ACL. The Council selected the most conservative recreational fishing season alternative in Amendment 50 to reduce the chance the recreational ACL will be exceeded, while still allowing for some recreational harvest opportunities.

Recreational AMs

The current AMs were established through Amendment 34 to the FMP (81 FR 3731, January 22, 2016) and includes an in-season closure for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACL, regardless of whether the stock is overfished. The current AMs also include post-season adjustments. If recreational landings exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If the total ACL is exceeded and red porgy are overfished, the length of the recreational fishing season and the recreational ACL are reduced by the amount of the recreational ACL overage.

This final rule revises the recreational AMs for red porgy. Given the new 2-month fishing season, both the current in-season closure and stock status based post-season AMs will be replaced with a new post-season AM. The revised recreational AM would be triggered in the following fishing year if the recreational ACL is exceeded. If recreational landings exceed the recreational ACL, the length of the following year's recreational fishing season would be reduced by the amount necessary to prevent the recreational ACL from being exceeded in the following year. However, the length of the recreational season would not be reduced if the Regional Administrator determines, using the best scientific information available, that a reduction is not necessary.

The Council's intent in revising the recreational AMs is to avoid an in-season closure of the recreational sector and extend maximum fishing opportunities to the sector during the 2-month recreational season. The revised AM will remove the current potential duplicate AM application of a reduction in the recreational season length and a payback of the recreational ACL overage if the total ACL was exceeded. Under the revised measure, the AM trigger will not be tied to the total ACL, but only to the recreational ACL. The modification of the current recreational AMs will ensure that overages in the recreational sector do not in turn affect the catch levels for the commercial sector. Any reduced recreational season length as a result of the new AM being implemented would apply to the recreational fishing season in the year following a recreational ACL overage.

Management Measures in Amendment 50 Not Codified by This Final Rule

In addition to the measures within this final rule, Amendment 50 revises the overfishing limit (OFL) for red porgy equal to the ABC and updates other biological reference points. The amendment also establishes a new rebuilding plan, and revises the ABC, the annual OY, and the sector allocations.

Rebuilding Plan for the South Atlantic Red Porgy Stock

As previously discussed, the Council implemented an 18-year rebuilding plan for the South Atlantic red porgy stock through Amendment 12 to the FMP that was expected to rebuild the stock by the end of 2017 (65 FR 51248, September 22, 2000). Because the South Atlantic red porgy stock did not rebuild within that time, and is still overfished, Amendment 50 establishes a new rebuilding plan schedule equal to the time estimated to rebuild the stock while maintaining fishing mortality at 75 percent of the maximum fishing mortality threshold during the

rebuilding period. This rebuilding period will be 26 years, beginning in 2022 and ending in 2047.

ABC and Annual OY

The current ABC for red porgy was implemented in Regulatory Amendment 18 to the FMP, based upon a stock assessment update (2012 SEDAR 1 Update) and the Council's SSC's recommendations (78 FR 47574, August 6, 2013).

In April 2020, the Council's SSC reviewed the latest stock assessment (SEDAR 60) and recommended new ABC levels as determined by SEDAR 60. The assessment and associated ABC recommendations incorporated the revised estimates for recreational catch and effort from the MRIP Access Point Angler Intercept Survey (APAIS) and FES. MRIP began incorporating a new survey design for APAIS in 2013 and replaced the Coastal Household Telephone Survey (CHTS) with FES in 2018. Prior to the implementation of MRIP in 2008, recreational landings estimates were generated using the Marine Recreational Fisheries Statistics Survey (MRFSS). As explained in Amendment 50, total recreational fishing effort estimates generated from MRIP FES are generally higher than both the MRFSS and MRIP CHTS estimates. This difference in estimates occurs because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden increase in fishing effort. The MRIP FES is considered by the Council's SSC, the Council, and NMFS to be a more reliable estimate of recreational effort and more robust compared to the MRIP CHTS method. The new ABC recommendations within Amendment 50 also represent the best scientific information available as determined by the SSC.

In addition, the Council chose to specify OY for red porgy on an annual basis and set it equal to the ABC and total ACL, in accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv), and using the formula implemented through the Comprehensive ACL Amendment to the FMP (77 FR 15915, March 16, 2012).

Comments and Reponses

NMFS received four comments from individuals during the public comment period on the notice of availability and proposed rule for Amendment 50. NMFS acknowledges the four comments in favor of the action in Amendment 50 and the proposed rule and agrees with them. No comments were received opposing Amendment 50 or the proposed rule. No changes were made to the final rule as a result of public comment.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 50, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

This final rule does not contain policies with federalism or ''takings'' implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has completed a final regulatory flexibility analysis (FRFA) in support of Amendment 50. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by public comments in response to the IRFA and NMFS' responses to those comments. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of the action, and the legal basis for this rule is contained in Amendment 50 and in the preambles to the proposed rule and this final rule and are not repeated here. The following constitutes the FRFA prepared for this final action.

The Magnuson-Stevens Act provides the statutory basis for this final rule. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

No public comments were received specifically in response to the IRFA, nor were there any public comments received that related to the potential economic impacts on small entities. No changes to this final rule were made in response to public comments.

All monetary estimates in the following analysis are in 2019 dollars.

This final rule will directly affect both anglers (recreational fishers) and commercial fishing businesses that harvest red porgy in the South Atlantic EEZ. Anglers, however, are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from charter vessel or headboat (for-hire) fishing, private or leased vessels. Therefore, neither estimates of the number of anglers nor the impacts on them are required or provided in this analysis. For-hire fishing businesses would be indirectly affected, and because the effects on for-hire businesses would be indirect, they fall outside the scope of the RFA.

Any business that operates a commercial fishing vessel that harvests red porgy in the South Atlantic EEZ must have a valid Federal South Atlantic snapper-grouper permit assigned to that vessel. From 2015 through 2019, an annual average of 161 (24 percent) snapper-grouper permitted vessels reported landings of red porgy. Therefore, NMFS estimates that 161 snapper-grouper permitted vessels will be directly affected by this rule.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily involved in commercial fishing (NAICS 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $11 million for all of its affiliated operations worldwide. The average annual total revenue for a snapper-grouper permitted vessel that landed red porgy from 2015 through 2019 was $68,539, which is substantially less than the above threshold. Moreover, none of the permitted vessels that land red porgy have annual revenue close to or greater than $11 million. Hence, NMFS estimates that all of the businesses that operate snapper-grouper permitted vessels that land red porgy are small.

Actions 1 and 2 of Amendment 50, which will establish a rebuilding plan and revise the OFL, ABC, annual OY, and total ACL for red porgy, would have indirect impacts on small businesses and their magnitudes are dependent on subsequent action.

Action 3 of Amendment 50 revises the sector allocations and increases the commercial allocation of the total ACL from 50 percent to 51.43 percent. Currently, the commercial ACL is 157,692 lb (71,528 kg), gutted weight, 164,000 lb (157,692 kg), whole weight. In combination, Actions 2 (total ACL) and 3 (sector allocations) would reduce the commercial ACL by 120,603 lb (54,705 kg) for 2022, and then to 110,713 lb (50,219 kg) for 2026 and subsequent years. If average annual commercial ACL landings from 2015

through 2019 represent future baseline landings from 2022 through 2026, Action 3 would generate an average annual reduction of commercial ACL landings of 68,822 lb (31,217 kg) during that 5-year period. At an average dockside price of $2.35 per lb, if the average 161 snapper-grouper permitted vessels with red porgy landings account for all commercial ACL landings of red porgy, they would collectively have annual losses of dockside revenue of $161,733 or individually have an average reduction of $1,005 (1.47 percent) per vessel. However, commercial landings reported by snapper-grouper permitted vessels represent, on average, 91.34 percent of commercial ACL landings from 2015 through 2019. As such, the 161 permitted vessels would collectively have average annual reductions of red porgy landings of 62,822 lb (28,496 kg) (91.34 percent of 68,822 lb (28,496 kg)) and dockside revenue of $147,727, or individually have average annual reductions of 427 lb (194 kg) and $918 (1.34 percent) per vessel.

Commercial landings of red porgy are not equally divided across the states. For purposes of protecting confidential information, Florida and Georgia vessels, landings and revenues are combined. On average, Florida and Georgia combined account for 28.73 percent of annual landings by weight and North Carolina and South Carolina account for 35.38 percent and 35.90 percent, respectively. Consequently, the average revenue losses per vessel under Action 3 (allocation) vary by state. NMFS estimates that the 49 Florida or Georgia vessels that land red porgy would each have an annual loss of $870 (1.24 percent of total dockside revenue), the 70 North Carolina vessels that land red porgy would each have an annual loss of $747 (1.41 percent of total dockside revenue), and the 42 South Carolina vessels that land red porgy would each have an annual loss of $1,251 (1.48 percent of total dockside revenue).

Action 4 (commercial trip limits) in Amendment 50 reduces the commercial trip limits for red porgy in the South Atlantic EEZ from 60 to 15 fish in Season 1 (January 1 through April 3) and 120 to 15 fish in Season 2 (May 1 through December 31). Because of the prohibition on commercially harvesting red porgy that had previously been in effect from January through April from January 1, 2015, to February 26, 2020, landings per trip during March and April of 2020 are used to evaluate baseline trips and landings per trip during March and April of Season 1. The resulting March and April figures are then doubled to produce estimates of the baseline number of trips and landings during Season 1. Baseline landings per trip during Season 2 are evaluated using landings from May 1 through December 31 from 2015 through 2019.

During Season 1, an estimated seven (14.29 percent) of 49 Florida and Georgia vessels report 82 trips that land over 15 red porgy. Similarly, an estimated 17 (24.29 percent) of 70 North Carolina vessels and 13 (30.95 percent) of 42 South Carolina vessels report 86 and 84 trips, respectively, that land over 15 red porgy during Season 1. NMFS estimates that the average trip that lands over 15 red porgy during Season 1 would lose 63 lb (29 kg) in Florida or Georgia, 45 lb (20 kg) in North Carolina, and 62 lb (28 kg) in South Carolina. The average losses in dockside revenue per vessel during Season 1 would be $1,734 for the 7 snapper-grouper permitted vessels that land red porgy in Florida or Georgia, $535 for the 17 snapper-grouper permitted vessels that land the species in North Carolina, and $941 for the 13 snapper-grouper permitted vessels that land red porgy in South Carolina.

From 2015 through 2019, an annual average of up to 52 vessels made 293 trips that landed red porgy in Florida or Georgia during Season 2 (May through December), and 68.60 percent of those trips made by 29 vessels landed more than 15 fish. During that same 5-year period, an annual average of 70 vessels made 590 trips that landed red porgy in North Carolina during Season 2, and 52.88 percent of those trips made by 47 vessels landed more than 15 fish. Furthermore, an annual average of 42 vessels made 362 trips that landed red porgy in South Carolina during Season 2 and 66.85 percent of the trips made by 36 vessels landed more than 15 fish. NMFS estimates that the average trip that currently lands over 15 red porgy in Florida or Georgia would lose 127 lb (58 kg) of red porgy, while the average trips that land over 15 red porgy in North Carolina and South Carolina would lose 75 lb (34 kg) and 103 lb (47 kg), respectively. With an average dockside price of $2.35/lb, the annual average of 29 vessels that land over 15 red porgy per trip during Season 2 in Florida or Georgia would have estimated annual reductions of $2,069 per vessel. Similarly, the average annual 47 vessels that land over 15 fish per trip in North Carolina and 38 vessels that land over 15 fish per trip in South Carolina during Season 2 would have an estimated annual revenue loss of $1,170 and $1,627 per vessel, respectively.

Actions 5 (recreational bag limits and recreational fishing season) and 6 (recreational AMs) in Amendment 50 will have direct impacts on anglers (recreational fishers), and no direct impacts on small businesses. Therefore, descriptions of those actions and analysis of their impacts are neither required nor provided.

The estimated impacts of each of the proposed actions on a vessel with a Federal commercial snapper-grouper permit that reports landings of red porgy are summarized in Table 1. Note that not all vessels are equally affected by the actions. For example, while Action 3 would affect 100 percent of the 49 Florida and Georgia vessels, the Season 1 trip limit of Action 4 would affect 14.29 percent of those 49 vessels. Because of that, the total impact per vessel of the combined actions is not the same for all vessels. Seven Florida and Georgia vessels would experience the maximum total adverse impact of $4,674, assuming they are also affected by the Season 2 trip limit, while 20 Florida and Georgia vessels would experience the minimum total adverse impact of $870. The range of the total impact per vessel is summarized in Table 2.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL ADVERSE IMPACTS PER VESSEL BY STATE BY ACTION

Action	Brief Description	Florida and Georgia	North Carolina	South Carolina
1	Rebuilding Timeframe	No direct impact.		
2	Total ACL & Annual OY	No direct impact.		
3	Commercial ACL	$870 per vessel for 49 (100%) vessels.	$747 per vessel for 70 (100%) vessels.	$1,251 per vessel for 42 (100%) vessels.
4	Season 1 Trip Limit	$1,734 per vessel for 7 (14.29%) vessels.	$535 per vessel for 17 (24.29%) vessels.	$535 per vessel for 13 (30.95%) vessels.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL ADVERSE IMPACTS PER VESSEL BY STATE BY ACTION—Continued

Action	Brief Description	Florida and Georgia	North Carolina	South Carolina
	Season 2 Trip Limit	$2,069 for 29 (59.18%) vessels	$1,179 per vessel for 47 (67.14%) vessels.	$1,627 per vessel for 38 (90.48%) vessels.
5	Recreational bag limit	No direct impact.		
6	Recreational AMs	No direct impact.		

TABLE 2—RANGE OF TOTAL ANNUAL IMPACTS PER VESSEL FOR COMBINED ACTIONS

State	Maximum total adverse impact per vessel	Number (%) of vessels with maximum total impact	Maximum percentage of annual revenue loss per vessel	Minimum total adverse impact per vessel	Number (%) of vessels with minimum total impact	Minimum percentage of annual revenue loss per vessel
FL/GA	$4,673	7 (14.29%)	6.64	$870	40 (40.92%)	1.24
NC	2,461	17 (24.29%)	4.65	747	23 (32.86%)	1.41
SC	3,413	13 (30.95%)	4.03	1,251	4 (9.52%)	1.48

As described in Amendment 50, annual net revenue from operations for vessels in the commercial snapper-grouper fishery was approximately 5 percent of their average annual total revenue from 2014 through 2016, while average net cash flow was about 19 percent of their average annual gross revenue during this time. Given that the rule could reduce a vessel's annual total revenue by an estimated 4.03 percent to 6.64 percent, NMFS determined that this final rule would have a significant adverse impact on a substantial number of small entities.

Three alternatives to Action 2, which would revise the total ACL, were considered, but not selected by the Council. Two of those alternatives would have larger decreases in the total ACL and subsequently larger reductions in the commercial ACL. As such, those two alternatives would have a larger adverse impact on small businesses. The third alternative, the status quo, would have no adverse impact on small businesses beyond the baseline.

The status-quo alternative to Action 3 (sector allocations), which would keep the commercial allocation of the total ACL at 50 percent, was considered, but not selected by the Council. It would have had a larger adverse economic impact on small businesses than the selected alternative.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as ''small entity compliance guides.'' The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a fishery bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.,* bulletin) will be available on the website (see **ADDRESSES**). Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Accountability measures, Annual catch limits, Commercial, Fisheries, Fishing, Recreational, Red porgy, South Atlantic.

Dated: December 14, 2022.

Andrew James Strelcheck,

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.183, add paragraph (b)(9) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(9) *Red porgy recreational sector closure.* The recreational sector for red porgy is closed from January 1 through April 30, and July 1 through December 31, each year. During a closure, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

■ 3. In § 622.187, revise paragraphs (b)(6) and (c)(2) to read as follows:

§ 622.187 Bag and possession limits.

* * * * *

(b) * * *

(6) *Red porgy.* 1.

* * * * *

(c) * * *

(2) A person aboard a vessel may not possess red porgy in or from the EEZ in excess of one per day or one per trip, whichever is more restrictive.

■ 4. In § 622.190, revise paragraphs (a) introductory text and (a)(6)(i) and (ii) to read as follows;

§ 622.190 Quotas.

* * * * *

(a) *South Atlantic snapper-grouper, excluding wreckfish.* The quotas apply to persons who are not subject to the bag limits. (See § 622.11 for applicability of the bag limits.) The quotas are in gutted weight, that is eviscerated but otherwise whole, except for the quotas in paragraphs (a)(4), (5), and (7) of this section which are in both gutted weight and round weight.

* * * * *

(6) * * *

(i) For the period January 1 through April 30 each year.

(A) For the 2022 fishing year—11,127 lb (5,047 kg).

(B) For the 2023 fishing year—12,017 lb (5,451 kg).

(C) For the 2024 fishing year—12,907 lb (5,855 kg).

(D) For the 2025 fishing year—13,500 lb (6,123 kg).

(E) For the 2026 and subsequent fishing years—14,094 lb (6,393 kg).

(ii) For the period May 1 through December 31 each year.

(A) For the 2022 fishing year—25,962 lb (11,776 kg).

(B) For the 2023 fishing year—28,039 lb (12,718 kg).

(C) For the 2024 fishing year—30,116 lb (13,660 kg).

(D) For the 2025 fishing year—31,501 lb (14,289 kg).

(E) For the 2026 and subsequent fishing years—32,886 lb (14,917 kg).

* * * * *

■ 5. In § 622.191, revise paragraphs (a)(4)(i) and (ii) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(4) * * *

(i) From January 1 through April 30—15 fish.

(ii) From May 1 through December 31—15 fish.

* * * * *

■ 6. In § 622.193, revise paragraphs (v)(1)(ii) and (v)(2) and add paragraph (v)(3) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(v) * * *

(1) * * *

(ii) If commercial landings for red porgy, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL as specified in paragraph (v)(3) of this section, is exceeded during the same fishing year, and red porgy are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for red porgy, as estimated by the SRD, exceed the recreational ACL specified in paragraph (v)(2)(ii) of this section, then during the following fishing year, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL. However, the length of the recreational fishing season will not be reduced in the following fishing year if NMFS determines, using the best scientific information available, that no fishing season reduction is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

(ii) The recreational ACL for red porgy is 35,026 lb (15,888 kg), gutted weight, for the 2022 fishing year; 37,829 lb (17,139 kg), gutted weight, for 2023 fishing year; 40,631 lb (18,430 kg), gutted weight, for the 2024 fishing year; 42,499 lb (19,277 kg), gutted weight, for the 2025 fishing year; and 44,367 lb (20,125 kg), gutted weight, for the 2026 and subsequent fishing years.

(3) *Combined commercial and recreational ACLs.* The combined commercial and recreational ACL for red porgy is 72,115 lb (32,711 kg), gutted weight, 75,000 lb (34,019 kg), round weight, for the 2022 fishing year; 77,885 lb (35,328 kg), gutted weight, 81,000 lb (36,741 kg), round weight, for 2023 fishing year; 83,654 lb (37,945 kg), gutted weight, 87,000 lb (39,463 kg), round weight, for the 2024 fishing year; 87,500 lb (39,689 kg), gutted weight, 91,000 lb (41,277 kg), round weight, for the 2025 fishing year; and 91,346 lb (41,434 kg), gutted weight, 95,000 lb (43,091 kg), round weight, for the 2026 and subsequent fishing years.

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[FR Doc. 2022–27485 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 87, No. 243

Tuesday, December 20, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2022–1548]

Airworthiness Criteria: Special Class Airworthiness Criteria for the Archer Aviation Inc. Model M001 Powered-Lift

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed airworthiness criteria.

SUMMARY: The FAA announces the availability of, and requests comments on, the proposed airworthiness criteria for the Archer Aviation Inc. (Archer) Model M001 powered-lift. This document proposes airworthiness criteria the FAA finds to be appropriate and applicable for the powered-lift design.

DATES: The FAA must receive comments by January 19, 2023.

ADDRESSES: Send comments identified by docket number FAA–2022–1548 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Anthony Primozich, Center for Emerging Concepts and Innovation (CECI) Branch, AIR–650, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 S 216th Street, Des Moines, WA 98198–6547; telephone and fax 206–231–3014; email *anthony.j.primozich@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested people to take part in the development of proposed airworthiness criteria for the Archer Model M001 powered-lift by sending written comments, data, or views. Please identify the Archer Model M001 and Docket No. FAA–2022–1548 on all submitted correspondence. The most helpful comments reference a specific portion of the airworthiness criteria, explain the reason for a recommended change, and include supporting data.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed airworthiness criteria. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these airworthiness criteria based on received comments.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to the individual listed under **FOR FURTHER INFORMATION CONTACT**. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this notice.

Background

On March 30, 2022, Archer applied for a type certificate for the Model M001 powered-lift. The Archer Model M001 powered-lift has a maximum gross takeoff weight of 6,500 lbs. and is capable of carrying a pilot and four passengers. The aircraft has a high-wing and V-tail [1] configuration with fixed tricycle landing gear. The aircraft uses 12 electric engines powered by onboard batteries for propulsion instead of conventional air and fuel combustion. Six engines with five-bladed variable-pitch propellers are mounted on the forward edge of the main wing, three to each side, which are capable of tilting to provide both vertical and forward thrust. The other six electric engines drive two-bladed fixed-pitch propellers and are mounted on the aft edge of the main wing, three to each side; they are fixed in place to provide only vertical thrust. The aft-mounted engines operate only during thrust-borne or semi-thrust-

[1] A V-Tail aircraft design incorporates two slanted tail surfaces instead of the horizontal and vertical fins of a conventional aircraft empennage. The two fixed tail surfaces of a V-Tail act as both horizontal and vertical stabilizers and each has a moveable flight-control surface referred to as a ruddervator.

borne flight; in wing-borne forward flight, these engines are switched off and the propellers are faired in line with the aircraft fuselage. The aircraft structure and propellers are constructed of composite materials. The Archer Model M001 powered-lift is intended to be used for part 91 and part 135 operations, with a single pilot onboard, under visual flight rules.

Discussion

Because the FAA has not yet established powered-lift airworthiness standards in 14 CFR, the FAA type certificates powered-lift as special class aircraft. Under the procedures in 14 CFR 21.17(b), the airworthiness requirements for special class aircraft are the portions of the requirements in 14 CFR parts 23, 25, 27, 29, 31, 33, and 35 found by the FAA to be appropriate and applicable to the specific type design and any other airworthiness criteria found by the FAA to provide an equivalent level of safety to the existing standards. This notice announces the applicable regulations and other airworthiness criteria developed, under § 21.17(b), for type certification of the Archer Model M001 powered-lift.

The Archer Model M001 powered-lift has characteristics of both a rotorcraft and an airplane. It is designed to function as a helicopter for takeoff and landing and as an airplane cruising at higher speeds than a helicopter during the en-route portion of flight operations. Accordingly, the Archer Model M001 powered-lift proposed airworthiness criteria contain standards from parts 23, 33, and 35 as well as other proposed airworthiness criteria specific for a powered-lift with electric engines.

For the existing regulations that are included without modification, these proposed airworthiness criteria include all amendments to the existing part 23, 33, and 35 airworthiness standards in effect as of the application date of March 30, 2022. These are part 23, amendment 23–64, part 33, amendment 33–34, and part 35, amendment 35–10.

The Archer Model M001 powered-lift proposed airworthiness criteria also include new performance-based criteria consisting of part 23 standards at amendment 23–64, modified as necessary to capture the powered-lift's transitional flight modes. The FAA developed these criteria because no existing standard captures the powered-lift's transitional flight modes. The proposed criteria also contain definitions specific for a powered-lift, such as flight modes, configurations, speeds, and terminology. Additionally, electric-engine and related propeller airworthiness criteria are proposed. The new requirements specific to the Archer Model M001 powered-lift use an ''AM1.xxxx'' section-numbering scheme.

The FAA selected and designed the particular airworthiness criteria proposed in this notice for the following reasons:

Aircraft-Level Requirements

The proposed installation requirements for cockpit voice and flight data recorders remain unchanged from the normal category airplane airworthiness standards in part 23. The proposed requirement to prepare Instructions for Continued Airworthiness accounts for the applicant's option to install type certificated engines and propellers or to seek approval of the engines and propellers under the aircraft type certificate.

General

The proposed airworthiness criteria include new or modified definitions to explain the unique capabilities and flight phases of the Archer Model M001 powered-lift and the meaning of certain terms used in regulations that have been incorporated by reference. In the event of a loss of engine power, airplanes and rotorcraft inherently have the ability to glide or autorotate, respectively. Although the aircraft may sustain damage, the ability to glide or autorotate allows the aircraft to reasonably protect the occupants. However, not all powered-lift have these capabilities. To address this, the FAA proposes a definition for ''continued safe flight and landing,'' unique for the Archer Model M001 powered-lift, that modifies language from the existing definition in § 23.2000; the FAA also proposes a new definition for ''controlled emergency landing'' to capture the level of performance the Archer Model M001 powered-lift must meet, equivalent to a glide or autorotation.

In addition, because many of the proposed airworthiness criteria are performance-based, like the regulations found in part 23, the FAA has proposed to adopt § 23.2010 by reference, which would require that the means of compliance used to comply with these proposed airworthiness criteria be accepted by the Administrator. Because no powered-lift consensus standards are currently accepted by the Administrator, the means of compliance for the Archer Model M001 powered-lift will be accepted through the issue paper process.[2]

Flight

Although part 23 replaced prescriptive design requirements with performance-based rules that are more easily adaptable to new and novel technology, these performance-based rules were written for conventionally configured airplanes equipped with reversible flight controls for fixed-wing takeoff and landing operations. To accommodate Archer's ability to engage in vertical takeoff and landing operations, these proposed airworthiness criteria adopt language from parts 27 and 29, where appropriate, with changes to allow for safe operation of the powered-lift below the stall speed of the wing. The FAA developed proposed criteria to address the integration of alternating sources of lift: thrust-borne, semi-thrust-borne, and wing-borne. While the FAA has experience certifying indirect flight-control systems such as fly-by-wire systems, Archer's design uses a unique, integrated flight- and propulsion-control system that requires new airworthiness criteria.

In addition, the FAA proposes a new AM1.2105, which incorporates all of § 23.2105 and adds criteria in new paragraphs (f) and (g). Proposed AM1.2105(f) and (g) would ensure the pilot is capable of executing a controlled emergency landing in the event of a loss of power or thrust, whether by the aircraft's ability to glide or autorotate, or through an equivalent means that reasonably protects occupants.

Powerplant

Part 23 (amendment 23–64) addresses electric propulsion, but only for conventionally configured airplanes that use propulsion for forward thrust. Archer's new and novel design uses a distributed propulsion system to provide forward thrust, lift, and control. While some of these design features can be addressed by existing airworthiness standards in parts 23 and 27, other features require the development of new airworthiness criteria. The proposed airworthiness criteria address the following unique and novel powerplant installation features:

- multi-engine isolation in a distributed propulsion system,
- simplified control of distributed propulsion,
- integration of a propulsion system into aircraft flight controls, and

[2] See Order 8110.112A, Standardized Procedures for Usage of Issue Papers and Development of Equivalent Levels of Safety Memorandums.

• energy-system crashworthiness associated with vertical takeoff and landing capability.

The proposed airworthiness criteria in AM1.2405 combine engine and propeller control functions from §§ 23.2405 and 23.2425, and revise the application to capture all powerplant control functions including engine control, propeller control, and nacelle rotation. Energy system airworthiness criteria in proposed AM1.2430 would include a requirement to address energy system crashworthiness to capture the intent of § 27.952 and would delete requirements specific to liquid fuel systems. The powerplant fire-protection airworthiness criteria in proposed AM1.2440 would replace prescriptive language from § 23.2440 for designated fire zones, with generalized fire-zone language to address all powerplant-related fire threats. Electric propulsion systems introduce new fire threats from high-voltage electrical power and battery systems. Designated fire zones assume a kerosene-based fire threat, which is inconsistent with fire threats from electric powerplant installations. These proposed criteria are intended to allow for safe operation of the powered-lift using an all-electric distributed propulsion system for thrust-borne, semi-thrust-borne, and wing-borne flight.

Structures

The flight and ground loads for powered-lift are generally comprised of three types of flight configurations: vertical, transition, and forward. The proposed airworthiness criteria are not taken solely from the forward-flight requirements of part 23 (for airplanes) or the vertical-flight requirements of part 27 (for rotorcraft). Powered-lift also rely on a transitional type of lift, which may include a combination of forward and vertical flight loads. The aerodynamic flow field around the powered-lift during transitional type of lift can be considerably different from what is traditionally observed during forward and vertical flight. In some flight configurations, the powered-lift may experience a combination of forward and vertical flight loads (forces). In other configurations, the aircraft may undergo a completely new type of aerodynamic flow field, not experienced during strictly forward or vertical flight. Traditional existing airworthiness standards do not adequately represent the aerodynamic loads, used for structural design, of a powered-lift. Therefore, the FAA finds that additional airworthiness criteria are necessary for structural design. The FAA created AM1.2200 and AM1.2225 by revising §§ 23.2200 and 23.2225 to address the powered-lift structural design envelope. The FAA created AM1.2240 by revising § 23.2240 to remove level 4 airplane requirements, because the Archer Model M001 powered-lift is not a level 4 airplane.

In addition, the FAA proposes a new AM1.2320, which incorporates all of § 23.2320 except for § 23.2320(b). Proposed AM1.2320(b) contains a new bird strike requirement specific for the applicant's design. The FAA recognizes the threat from bird strikes in the environment in which these aircraft are intended to operate is more severe than the environment that rotorcraft or part 23 fixed-wing aircraft operate in today. The Archer Model M001 powered-lift has inherent design features and expected operations that potentially expose the aircraft to a higher probability of impact with birds.

The Archer Model M001 powered-lift will operate at altitudes similar to rotorcraft, and the FAA expects it will cruise at airspeeds that are the same as or greater than rotorcraft. However, the FAA expects the Archer Model M001 powered-lift will spend less time in hover compared to rotorcraft, increasing high-speed flight time. The FAA also recognizes that the Archer Model M001 powered-lift will be much quieter than conventional helicopter turboshaft engines and rotors. As a result, birds will have fewer cues to the existence of the vehicle due to quiet approach environments.

All of these factors combined increase the aircraft's exposure to birds. Accordingly, the FAA proposes a more comprehensive bird strike requirement for the Archer Model M001 powered-lift. As cited in the Aviation Rulemaking Advisory Committee (ARAC) Rotorcraft Bird Strike Working Group (RBSWG) report,[3] an analysis of bird strike threats against rotorcraft showed the median bird size for birds involved in damaging strikes was 1.125 kg (2.5 lb). Based on that research, the FAA proposes a bird impact size of 1.0 kg (2.2-lb), consistent with rotorcraft industry testing. The applicant must perform an evaluation at the aircraft level to determine what parts of the aircraft are exposed to potential bird strikes.

The FAA also proposes a requirement for bird deterrence devices to reduce the potential for bird strikes. Research, testing, and use of bird-deterrence technology has shown to be effective in reducing bird strikes.[4] Alerting birds to the presence of the aircraft allows birds to avoid striking the aircraft. Bird deterrence systems may include, for example, light technology to aid birds in detecting and avoiding the aircraft.

Electric Engines

The electric engines proposed for installation on the Archer Model M001 powered-lift use electric power instead of air-and-fuel combustion to propel the aircraft. These electric engines are designed, manufactured, and controlled differently than aircraft engines that operate using aviation fuel. These engines are built with an electric motor, a controller, and a high-voltage system that draws energy from electrical storage or generating systems. The engines in the Archer Model M001 powered-lift are devices that convert electrical energy into mechanical energy; electric current flowing through wire coils in the motor produces a magnetic field that interacts with magnets on the rotating armature shaft. The controller is a system that consists of two main functional elements: the motor controller and an electric-power inverter to drive the motor associated with an electric engine. The high-voltage system is a combination of wires, power-conditioning components, and connectors that couple an energy source to an electric engine, associated motor, and a controller.

The technology required to provide energy through these high-voltage and high-current electronic components introduces potential hazards that do not exist in aircraft engines that operate using aviation fuel. For example, high-voltage transmission lines, electromagnetic fields, magnetic materials, and high-speed electrical switches form the electric engine's physical properties. Operating at these high power levels also exposes the electric engines to potential failures, which could adversely affect safety, and that are not common to aircraft engines that operate using aviation fuel.

Propellers

Part 35 contains airworthiness standards to ensure that uninstalled propellers meet the minimum level of safety that the FAA deems acceptable. Part 35 requirements are appropriate for propellers that are installed on conventional airplanes, type certificated under part 23 or part 25, that have construction and blade-pitch actuation methods typically found on such airplanes.

[3] ARAC RBSWG Report, Rev. B, May 8, 2019, page 15, Section "Bird Mass" (ARAC RBSWG Report), *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3964.*

[4] ARAC RBSWG Report, pages 48–50.

Emerging electric-powered and hybrid electric-powered aircraft, especially electric powered-lift that are intended for ''air taxi'' type operations in and near urban areas and capable of vertical and short takeoff and landing, often feature propellers designed for both horizontal thrust and vertical lift. In addition, propeller blade-pitch actuation for such aircraft typically is performed electrically, and is more extensively integrated into the aircraft's propulsion and flight-control system compared to conventional airplanes type certificated under part 23 or part 25.

Propellers are integral parts of a variety of airplane propulsion systems and, until the advent of electric engines, have been subjected to the forces of fossil-fuel-powered reciprocating and turbine combustion engines. Electric engines present different considerations due to the increased torque and potentially higher revolutions per minute.

The most basic requirement, for all conventional part 23 and 25 aircraft as well as the Archer Model M001 powered-lift, is to reduce the risk of propeller failure or release of debris to the occupants and critical aircraft structures and components to an acceptable level. Features and characteristics of propellers must ensure that they are safe for the certification application requested.

These proposed airworthiness criteria would require functional engine demonstrations, including feathering, negative torque, negative thrust, and reverse-thrust operations, as appropriate, using a representative propeller. The applicant may conduct these demonstrations as part of the endurance and durability demonstrations.

Applicability

These airworthiness criteria, established under the provisions of § 21.17(b), are applicable to the Archer Model M001 powered-lift. Should Archer wish to apply these airworthiness criteria to other powered-lift models, it must submit a new application for a type certificate.

The Proposed Airworthiness Criteria

The FAA proposes to establish the following airworthiness criteria for type certification of the Archer Model M001 powered-lift. The FAA proposes that compliance with the following criteria will provide an equivalent level of safety to existing rules.

Aircraft–Level Requirements

§ 23.1457 Cockpit voice recorders.

(a) through (g) [Applicable to Model M001]

§ 23.1459 Flight data recorders.

(a) through (e) [Applicable to Model M001]

AM1.1529 Instructions for Continued Airworthiness

The applicant must prepare Instructions for Continued Airworthiness (ICA), in accordance with Appendices A, A1, and A2, that are acceptable to the Administrator. ICA for the aircraft, engines, and propellers may be shown in a single aircraft ICA manual if the engine and propeller approvals are sought through the aircraft certification program. Alternatively, the applicant may provide individual ICA for the aircraft, engines, and propellers. The instructions may be incomplete at the time of type certification if a program exists to ensure their completion prior to delivery of the first aircraft, or issuance of a standard certificate of airworthiness, whichever occurs later.

SUBPART A—General

AM1.2000 Applicability and Definitions

(a) These airworthiness criteria prescribe airworthiness standards for the issuance of a type certificate, and changes to that type certificate, for the Archer Aviation Inc. Model M001 powered-lift.

(b) For purposes of these airworthiness criteria, the following definitions apply:

(1) *Continued safe flight and landing* means an aircraft is capable of continued controlled flight and landing, possibly using emergency procedures, without requiring exceptional pilot skill or strength.

(2) *Phases of flight* means ground operations, takeoff, climb, cruise, descent, approach, hover, and landing.

(3) *Source of lift* means one of three sources of lift: thrust-borne, wing-borne, and semi-thrust-borne. Thrust-borne is defined as when the powered-lift is maneuvering in the vertical plane and lift is predominately from downward thrust. Wing-borne is defined as when the powered-lift is maneuvering in the horizontal plane and lift is predominately from fixed airfoil surfaces. Semi-thrust-borne is the combination of thrust-borne and wing-borne, where both forms of lift are applied.

(4) *Loss of power/thrust* means a condition when the aircraft can no longer provide the commanded power or thrust required for continued safe flight and landing.

(5) *Controlled emergency landing* means the pilot is capable of choosing the direction and area of touchdown, and the aircraft is capable of reasonably protecting occupants. Upon landing, some damage to the aircraft may be acceptable.

(c) Terms used in the part 23 provisions that are adopted in these airworthiness criteria are interpreted as follows:

''Airplane'' means ''aircraft.''

''This part'' means ''these airworthiness criteria.''

§ 23.2010 Accepted means of compliance.

(a) through (b) [Applicable to Model M001]

SUBPART B—Flight Performance

§ 23.2100 Weight and center of gravity.

(a) through (c) [Applicable to Model M001]

AM1.2105 Performance Data

(a) Unless otherwise prescribed, an aircraft must meet the performance requirements of this subpart in still air and standard atmospheric conditions.

(b) Unless otherwise prescribed, the applicant must develop the performance data required by this subpart for the following conditions:

(1) Airport altitudes from sea level to 10,000 feet (3,048 meters); and

(2) Temperatures above and below standard day temperature that are within the range of operating limitations, if those temperatures could have a negative effect on performance.

(c) The procedures used for determining takeoff and landing performance must be executable consistently by pilots of average skill in atmospheric conditions expected to be encountered in service.

(d) Performance data determined in accordance with paragraph (b) of this section must account for losses due to atmospheric conditions, cooling needs, installation losses, downwash considerations, and other demands on power sources.

(e) The hovering ceiling, in and out of ground effect, must be determined over the ranges of weight, altitude, and temperature, if applicable.

(f) Continued safe flight and landing must be possible from any point within the flight envelope following a critical loss of thrust not shown to be extremely improbable.

(g) The aircraft must be capable of a controlled emergency landing, after loss of power or thrust, by gliding or

autorotation, or an equivalent means, to mitigate the risk of loss of power or thrust.

AM1.2110 Minimum Safe Speed

The applicant must determine the aircraft minimum safe speed for each flight condition encountered in normal operations, including applicable sources of lift and phases of flight, to maintain controlled safe flight. The minimum safe speed determination must account for the most adverse conditions for each flight configuration.

AM1.2115 Takeoff Performance

(a) The applicant must determine takeoff performance accounting for flight envelope and obstacle safety margins.

(b) The applicant must determine takeoff performance accounting for any loss of thrust not shown to be extremely improbable.

AM1.2120 Climb Requirements

(a) The applicant must demonstrate minimum climb performance at each weight, altitude, and ambient temperature within the operating limitations using the procedures published in the flight manual.

(b) The applicant must demonstrate minimum climb performance accounting for any loss of thrust not shown to be extremely improbable.

AM1.2125 Climb Information.

(a) The applicant must determine climb performance at each weight, altitude, and ambient temperature within the operating limitations using the procedures published in the flight manual.

(b) The applicant must determine climb performance accounting for any loss of thrust not shown to be extremely improbable.

AM1.2130 Landing

The applicant must determine the following, for standard temperatures at critical combinations of weight and altitude within the operational limits:

(a) The landing performance, assuming approach paths applicable to the aircraft.

(b) The approach, transition if applicable, and landing speeds, configurations, and procedures, which allow a pilot of average skill to land within the published landing performance consistently and without causing damage or injury, and which allow for a safe transition to the balked landing conditions of these airworthiness criteria, accounting for the minimum safe speed.

FLIGHT CHARACTERISTICS

AM1.2135 Controllability

(a) The aircraft must be controllable and maneuverable, without requiring exceptional piloting skill, alertness, or strength, within the operating envelope—

(1) At all loading conditions for which certification is requested;

(2) During all phases of flight while using applicable sources of lift;

(3) With likely flight-control or propulsion-system failure;

(4) During configuration changes;

(5) In all degraded flight-control-system operating modes not shown to be extremely improbable; and

(6) In thrust-borne operation, and must be able to land safely in wind velocities from zero to a wind limit appropriate for the aircraft from any azimuth angle.

(b) The applicant must determine critical control parameters, such as limited-control power margins, and if applicable, account for those parameters in developing operating limitations.

(c) It must be possible to make a smooth change from one flight condition to another (changes in configuration, and in source of lift and phase of flight) without exceeding the approved flight envelope.

AM1.2140 Trim

(a) The aircraft must maintain lateral and directional trim without further force upon, or movement of, the primary flight controls or corresponding trim controls by the pilot, or the flight-control system, under normal phases of flight while using applicable sources of lift in cruise.

(b) The aircraft must maintain longitudinal trim without further force upon, or movement of, the primary flight controls or corresponding trim controls by the pilot, or the flight-control system, under the following conditions:

(1) Climb.

(2) Level flight.

(3) Descent.

(4) Approach.

(c) Residual control forces must not fatigue or distract the pilot during normal operations of the aircraft and likely abnormal or emergency operations, including loss of thrust not shown to be extremely improbable on multi-engine aircraft.

AM1.2145 Stability

(a) Aircraft not certified for aerobatics must exhibit stable characteristics in normal operations and after likely failures of the flight and propulsion control system.

(b) No aircraft may exhibit any divergent longitudinal stability characteristic so unstable as to increase the pilot's workload or otherwise endanger the aircraft and its occupants.

AM1.2150 Minimum Safe Speed Flight Characteristics, Minimum Safe Speed Warning, and Spins.

(a) The aircraft must have controllable minimum safe speed flight characteristics in straight flight, turning flight, and accelerated turning flight with a clear and distinctive minimum safe speed warning that provides sufficient margin to prevent inadvertent slowing below minimum safe speed.

(b) Aircraft not certified for aerobatics must not have a tendency to inadvertently depart controlled flight from thrust asymmetry after a critical loss of thrust.

(c) Aircraft certified for aerobatics that include spins must have controllable stall characteristics and the ability to recover within one and one-half additional turns after initiation of the first control action from any point in a spin, not exceeding six turns or any greater number of turns for which certification is requested, while remaining within the operating limitations of the aircraft.

(d) Spin characteristics in aircraft certified for aerobatics that includes spins must recover without exceeding limitations and may not result in unrecoverable spins—

(1) With any typical use of the flight or engine-power controls; or

(2) Due to pilot disorientation or incapacitation.

§ 23.2155 Ground and water handling characteristics.

[Applicable to Model M001]

§ 23.2160 Vibration, buffeting, and high-speed characteristics.

(a) [Applicable to Model M001]

(b) through (d) [Not applicable to Model M001]

AM1.2165 Performance and Flight Characteristics Requirements for Flight in Atmospheric Icing Conditions

(a) An applicant who requests certification for flight in atmospheric icing conditions must show the following in the icing conditions for which certification is requested:

(1) Compliance with each requirement of this subpart, except those applicable to spins and any that must be demonstrated at speeds in excess of—

(i) 250 knots calibrated airspeed (CAS);

(ii) V_{MO}/M_{MO} or V_{NE}; or

(iii) A speed at which the applicant demonstrates the airframe will be free of ice accretion.

(2) The means by which minimum safe speed warning is provided to the pilot for flight in icing conditions and non-icing conditions is the same.

(b) The applicant must provide a means to detect icing conditions for which certification is not requested and show the aircraft's ability to avoid or exit those icing conditions.

(c) The applicant must develop an operating limitation to prohibit intentional flight, including takeoff and landing, into icing conditions for which the aircraft is not certified to operate.

SUBPART C—Structures

AM1.2200 Structural Design Envelope

The applicant must determine the structural design envelope, which describes the range and limits of aircraft design and operational parameters for which the applicant will show compliance with the requirements of this subpart. The applicant must account for all aircraft design and operational parameters that affect structural loads, strength, durability, and aeroelasticity, including:

(a) Structural design airspeeds, landing-descent speeds, and any other airspeed limitation at which the applicant must show compliance to the requirements of this subpart. The structural design airspeeds must—

(1) Be sufficiently greater than the minimum safe speed of the aircraft to safeguard against loss of control in turbulent air; and

(2) Provide sufficient margin for the establishment of practical operational limiting airspeeds.

(b) Design maneuvering load factors not less than those, which service history shows, may occur within the structural design envelope.

(c) Inertial properties including weight, center of gravity, and mass moments of inertia, accounting for—

(1) Each critical weight from the aircraft empty weight to the maximum weight; and

(2) The weight and distribution of occupants, payload, and fuel.

(d) Characteristics of aircraft control systems, including range of motion and tolerances for control surfaces, high lift devices, or other moveable surfaces.

(e) Each critical altitude up to the maximum altitude.

(f) Engine-driven lifting-device rotational speed and ranges, and the maximum rearward and sideward flight speeds.

§ 23.2205 Interaction of systems and structures.

[Applicable to Model M001]

Structural Loads

§ 23.2210 Structural design loads.

(a) through (b) [Applicable to Model M001]

§ 23.2215 Flight load conditions.

(a) through (c) [Applicable to Model M001]

§ 23.2220 Ground and water load conditions.

[Applicable to Model M001]

AM1.2225 Component loading conditions

The applicant must determine the structural design loads acting on:

(a) Each engine mount and its supporting structure such that both are designed to withstand loads resulting from—

(1) Powerplant operation combined with flight gust and maneuver loads; and

(2) For non-reciprocating powerplants, sudden powerplant stoppage.

(b) Each flight control and high-lift surface, their associated system and supporting structure resulting from—

(1) The inertia of each surface and mass balance attachment;

(2) Flight gusts and maneuvers;

(3) Pilot or automated system inputs;

(4) System induced conditions, including jamming and friction; and

(5) Taxi, takeoff, and landing operations on the applicable surface, including downwind taxi and gusts occurring on the applicable surface.

(c) A pressurized cabin resulting from the pressurization differential—

(1) From zero up to the maximum relief pressure combined with gust and maneuver loads;

(2) From zero up to the maximum relief pressure combined with ground and water loads if the aircraft may land with the cabin pressurized; and

(3) At the maximum relief pressure multiplied by 1.33, omitting all other loads.

(d) Engine-driven lifting-device assemblies, considering loads resulting from flight and ground conditions, as well limit input torque at any lifting-device rotational speed.

§ 23.2230 Limit and ultimate loads.

(a) through (b) [Applicable to Model M001]

Structural Performance

§ 23.2235 Structural strength.

(a) through (b) [Applicable to Model M001]

AM1.2240 Structural Durability

(a) The applicant must develop and implement inspections or other procedures to prevent structural failures due to foreseeable causes of strength degradation, which could result in serious or fatal injuries, or extended periods of operation with reduced safety margins. Each of the inspections or other procedures developed under this section must be included in the Airworthiness Limitations Section of the Instructions for Continued Airworthiness, required by AM1.1529.

(b) For pressurized aircraft:

(1) The aircraft must be capable of continued safe flight and landing following a sudden release of cabin pressure, including sudden releases caused by door and window failures.

(2) For aircraft with maximum operating altitude greater than 41,000 feet, the procedures developed for compliance with paragraph (a) of this section must be capable of detecting damage to the pressurized cabin structure before the damage could result in rapid decompression that would result in serious or fatal injuries.

(c) The aircraft must be designed to minimize hazards to the aircraft due to structural damage caused by high-energy fragments from an uncontained engine or rotating machinery failure.

§ 23.2245 Aeroelasticity.

(a) through (b) [Applicable to Model M001]

Design

§ 23.2250 Design and construction principles.

(a) through (e) [Applicable to Model M001]

§ 23.2255 Protection of structure.

(a) through (c) [Applicable to Model M001]

§ 23.2260 Materials and processes.

(a) through (g) [Applicable to Model M001]

§ 23.2265 Special factors of safety.

(a) through (c) [Applicable to Model M001]

Structural Occupant Protection

§ 23.2270 Emergency conditions.

(a) through (e) [Applicable to Model M001]

SUBPART D—Design and Construction

AM1.2300 Flight-control systems

(a) The applicant must design flight-control systems to:

(1) Operate easily, smoothly, and positively enough to allow proper performance of their functions; and

(2) Protect against likely hazards.

(b) The applicant must design trim systems, if installed, to:

(1) Protect against inadvertent, incorrect, or abrupt trim operation; and

(2) Provide a means to indicate—

(i) The direction of trim control movement relative to aircraft motion;

(ii) The trim position with respect to the trim range;

(iii) The neutral position for lateral and directional trim; and

(iv) The range for takeoff for all applicant-requested center of gravity ranges and configurations.

(c) In addition to paragraph (a) and (b) of this section, for indirect flight-control systems:

(1) A means must be provided to indicate to the flightcrew any significant changes or degradation to the handling or operational characteristics of the aircraft during normal and abnormal system operation; and

(2) Features that protect the aircraft against loss of control, structural damage, or exceeding critical limits must be designed such that—

(i) The onset characteristics of each protection feature is smooth and appropriate for the phase of flight and type of maneuver;

(ii) There are no adverse flight characteristics in aircraft response to flight-control inputs, unsteady atmospheric conditions, and other likely conditions, including simultaneous limiting events; and

(iii) The aircraft is capable of continued safe flight and landing following failures not shown to be extremely improbable throughout the approved flight envelope and expected operational conditions.

§ 23.2305 Landing gear systems.

(a) through (c) [Applicable to Model M001]

§ 23.2310 Buoyancy for seaplanes and amphibians.

(a) through (b) [Applicable to Model M001]

Occupant System Design Protection

§ 23.2315 Means of egress and emergency exits.

(a) through (b) [Applicable to Model M001, including the ditching exclusion in (a)(1)]

AM1.2320 Occupant Physical Environment.

(a) The applicant must design the aircraft to:

(1) Allow clear communication between the flightcrew and passengers;

(2) Protect the pilot and flight controls from propellers; and

(3) Protect the occupants from serious injury due to damage to windshields, windows, and canopies.

(b) The aircraft must be capable of continued safe flight and landing after a bird strike with a 2.2-lb (1.0 kg) bird. In addition, the aircraft design must include bird deterrence devices to reduce the potential for bird strikes.

(c) The aircraft must provide each occupant with air at a breathable pressure, free of hazardous concentrations of gases, vapors, and smoke during normal operations and likely failures.

(d) If a pressurization system is installed in the aircraft, it must be designed to protect against:

(1) Decompression to an unsafe level; and

(2) Excessive differential pressure.

(e) If an oxygen system is installed in the aircraft, it must—

(1) Effectively provide oxygen to each user to prevent the effects of hypoxia; and

(2) Be free from hazards in itself, in its method of operation, and its effect upon other components.

Fire and High Energy Protection

§ 23.2325 Fire protection.

(a)(1), (a)(2), (b) through (d), (f)(1), and (g) through (h) [Applicable to Model M001]

(a)(3), (e), and (f)(2) [Not applicable to Model M001]

AM1.2330 Fire Protection in Fire Zones and Adjacent Areas.

(a) Flight controls, engine mounts, and other flight structures within or adjacent to fire zones must be capable of withstanding the effects of a fire.

(b) Engines in a fire zone must remain attached to the aircraft in the event of a fire.

(c) In fire zones, terminals, equipment, and electrical cables used during emergency procedures must perform their intended function in the event of a fire.

AM1.2335 Lightning and Static Electricity Protection.

(a) The aircraft must be protected against catastrophic effects from lightning.

(b) The aircraft must be protected against hazardous effects caused by an accumulation of electrostatic charge.

SUBPART E—Powerplant

AM1.2400 Powerplant Installation.

(a) For the purpose of this subpart, the aircraft powerplant installation must include each component necessary for propulsion, which affects propulsion safety, or provides auxiliary power to the aircraft.

(b) Each aircraft engine and propeller must have a type certificate or be approved under the aircraft type certificate using standards found in subparts H and I.

(c) The applicant must construct and arrange each powerplant installation to account for—

(1) Likely operating conditions, including foreign-object threats;

(2) Sufficient clearance of moving parts to other aircraft parts and their surroundings;

(3) Likely hazards in operation including hazards to ground personnel; and

(4) Vibration and fatigue.

(d) Hazardous accumulations of fluids, vapors, or gases must be isolated from the aircraft and personnel compartments and be safely contained or discharged.

(e) Powerplant components must comply with their component limitations and installation instructions or be shown not to create a hazard.

AM1.2405 Power or Thrust Control Systems.

(a) Any power or thrust control system, reverser system, or powerplant control system must be designed so no unsafe condition results during normal operation of the system.

(b) Any single failure or likely combination of failures or malfunctions of a power or thrust control system, reverser system, or powerplant control system must not prevent continued safe flight and landing of the aircraft.

(c) Inadvertent flightcrew operation of a power or thrust control system, reverser system, or powerplant control system must be prevented, or if not prevented, must not prevent continued safe flight and landing of the aircraft.

(d) Unless the failure of an automatic power or thrust control system is extremely remote, the system must—

(1) Provide a means for the flightcrew to verify the system is in an operating condition;

(2) Provide a means for the flightcrew to override the automatic function; and

(3) Prevent inadvertent deactivation of the system.

§ 23.2410 Powerplant installation hazard assessment.

(a) through (c) [Applicable to Model M001]

§ 23.2415 Powerplant ice protection.

(a) through (b) [Applicable to Model M001]

AM1.2425 Powerplant Operational Characteristics

(a) Each installed powerplant must operate without any hazardous characteristics during normal and emergency operation within the range of operating limitations for the aircraft and the engine.

(b) The design must provide for the shutdown and restart of the powerplant in flight within an established operational envelope.

AM1.2430 Energy Systems

(a) Each energy system must—

(1) Be designed and arranged to provide independence between multiple energy-storage and supply systems, so that failure of any one component in one system will not result in loss of energy storage or supply of another system;

(2) Be designed to prevent catastrophic events due to lightning strikes, taking into account direct and indirect effects on the aircraft where the exposure to lightning is likely;

(3) Provide the energy necessary to ensure each powerplant and auxiliary power unit functions properly in all likely operating conditions;

(4) Provide the flightcrew with a means to determine the total useable energy available and provide uninterrupted supply of that energy when the system is correctly operated, accounting for likely energy fluctuations;

(5) Provide a means to safely remove or isolate the energy stored in the system from the aircraft; and

(6) Be designed to retain energy under all likely operating conditions and to minimize hazards to occupants following an emergency landing or otherwise survivable impact (crash landing).

(7) [Reserved]

(b) Each energy-storage system must—

(1) Withstand the loads under likely operating conditions without failure; and

(2) Be isolated from personnel compartments and protected from hazards due to unintended temperature influences.

(3) [Reserved]

(4) [Reserved]

(c) Each energy-storage refilling or recharging system must be designed to—

(1) Prevent improper refilling or recharging; and

(2) [Reserved]

(3) Prevent the occurrence of hazard to the aircraft or to persons during refilling or recharging.

§ 23.2435 Powerplant induction and exhaust systems.

(a) through (b) [Applicable to Model M001]

AM1.2440 Powerplant Fire Protection

There must be means to isolate and mitigate hazards to the aircraft in the event of a powerplant-system fire or overheat in operation.

SUBPART F—Equipment

§ 23.2500 Airplane level systems requirements.

(a) through (b) [Applicable to Model M001]

§ 23.2505 Function and installation.

[Applicable to Model M001]

§ 23.2510 Equipment, systems, and installations.

(a) through (c) [Applicable to Model M001]

AM1.2515 Electrical- and Electronic-System Lightning Protection

(a) Each electrical or electronic system that performs a function, the failure of which would prevent the continued safe flight and landing of the aircraft, must be designed and installed such that—

(1) The function at the aircraft level is not adversely affected during and after the time the aircraft is exposed to lightning; and

(2) The system recovers normal operation of that function in a timely manner after the aircraft is exposed to lightning unless the system's recovery conflicts with other operational or functional requirements of the system.

(b) For an aircraft approved for operation under instrument flight rules (IFR), each electrical and electronic system that performs a function, the failure of which would significantly reduce the capability of the aircraft or the ability of the flightcrew to respond to an adverse operating condition, must be designed and installed such that the system recovers normal operation of that function in a timely manner after the aircraft is exposed to lightning.

§ 23.2520 High-intensity Radiated Fields (HIRF) protection.

(a) through (b) [Applicable to Model M001]

§ 23.2525 System power generation, storage, and distribution.

(a) through (c) [Applicable to Model M001]

§ 23.2530 External and cockpit lighting.

(a) through (e) [Applicable to Model M001]

§ 23.2535 Safety equipment.

[Applicable to Model M001]

AM1.2540 Flight in Icing Conditions

An applicant who requests certification for flight in icing conditions must show the following in the icing conditions for which certification is requested:

(a) The ice protection system provides for safe operation; and

(b) The aircraft design must provide protection from slowing to less than the minimum safe speed when the autopilot is operating.

§ 23.2545 Pressurized systems elements.

[Applicable to Model M001]

§ 23.2550 Equipment containing high-energy rotors.

[Applicable to Model M001]

SUBPART G—Flightcrew Interface and Other Information

AM1.2600 Flightcrew Interface

(a) The pilot compartment, its equipment, and its arrangement to include pilot view, must allow each pilot to perform their duties for all sources of lift and phases of flight and perform any maneuvers within the operating envelope of the aircraft, without excessive concentration, skill, alertness, or fatigue.

(b) The applicant must install flight, navigation, surveillance, and powerplant controls and displays, as needed, so qualified flightcrew can monitor and perform defined tasks associated with the intended functions of systems and equipment, without excessive concentration, skill, alertness, or fatigue. The system and equipment design must minimize flightcrew errors, which could result in additional hazards.

§ 23.2605 Installation and operation.

(a) through (c) [Applicable to Model M001]

§ 23.2610 Instrument markings, control markings, and placards.

(a) through (c) [Applicable to Model M001]

AM1.2615 Flight, Navigation, and Powerplant Instruments

(a) Installed systems must provide the flightcrew member who sets or monitors parameters for the flight, navigation, and powerplant, the information necessary to do so during each source of lift and phase of flight. This information must—

(1) Be presented in a manner that the crewmember can monitor the parameter and determine trends, as needed, to operate the aircraft; and

(2) Include limitations, unless the limitations cannot be exceeded in all intended operations.

(b) Indication systems that integrate the display of flight or powerplant parameters to operate the aircraft, or are required by the operating rules of title 14, chapter I, must—

(1) Not inhibit the primary display of flight or powerplant parameters needed by any flightcrew member in any normal mode of operation; and

(2) In combination with other systems, be designed and installed so information essential for continued safe flight and landing will be available to the flightcrew in a timely manner after any single failure or probable combination of failures.

AM1.2620 Aircraft Flight Manual

The applicant must provide an Aircraft Flight Manual that must be delivered with each aircraft.

(a) The Aircraft Flight Manual must contain the following information—

(1) Aircraft operating limitations;

(2) Aircraft operating procedures;

(3) Performance information;

(4) Loading information; and

(5) Other information that is necessary for safe operation because of design, operating, or handling characteristics.

(b) The portions of the Aircraft Flight Manual containing the information specified in paragraphs (a)(1) through (a)(4) of this section must be approved by the FAA in a manner specified by the Administrator.

SUBPART H—Electric Engine Requirements

§ 33.5 Instruction manual for installing and operating the engine.

(a) through (c) [Applicable to Model M001]

§ 33.7 Engine ratings and operating limitations.

(a) [Applicable to Model M001]

(b) through (d) [Not applicable to Model M001]

AM1.2702 Engine Ratings and Operating Limits

Ratings and operating limits must be established and included in the type certificate data sheet based on:

(a) Shaft power, torque, rotational speed, and temperature for:

(1) Rated takeoff power;

(2) Rated maximum continuous power; and

(3) Rated maximum temporary power and associated time limit.

(b) Duty Cycle and the rating at that duty cycle. The duty cycle must be declared in the type certificate data sheet.

(c) Cooling fluid grade or specification.

(d) Power-supply requirements.

(e) Any other ratings or limitations that are necessary for the safe operation of the engine.

§ 33.8 Selection of engine power and thrust ratings.

(a) through (b) [Applicable to Model M001]

§ 33.15 Materials.

(a) through (b) [Applicable to Model M001]

§ 33.17 Fire protection.

(a) through (g) [Applicable to Model M001]

AM1.2704 Fire Protection.

High-voltage electrical wiring interconnect systems must be protected against arc faults. Non-protected electrical wiring interconnects must be analyzed to show that arc faults do not cause a hazardous engine effect.

AM1.2705 Durability.

The engine design and construction must minimize the development of an unsafe condition of the engine between maintenance intervals, overhaul periods, or mandatory actions described in the applicable ICA.

§ 33.21 Engine cooling.

[Applicable to Model M001]

AM1.2706 Engine Cooling

If cooling is required to satisfy the safety analysis as described in AM1.2717, the cooling-system monitoring features and usage must be documented in the engine installation manual.

§ 33.23 Mounting attachment and structure.

(a) through (b) [Applicable to Model M001]

§ 33.25 Accessory attachments.

[Applicable to Model M001]

AM1.2709 Overspeed

(a) A rotor overspeed must not result in a burst, rotor growth, or damage that results in a hazardous engine effect, as defined in AM1.2717(d)(2). Compliance with this paragraph must be shown by test, validated analysis, or a combination of both. Applicable assumed rotor speeds must be declared and justified.

(b) Rotors must possess sufficient strength with a margin to burst above certified operating conditions and above failure conditions leading to rotor overspeed. The margin to burst must be shown by test, validated analysis, or a combination thereof.

(c) The engine must not exceed the rotor-speed operational limitations that could affect rotor structural integrity.

§ 33.28 Engine control systems.

(b)(1)(i), (b)(1)(iii), and (b)(1)(iv) [Applicable to Model M001]

(a), (b)(1)(ii), (b)(2) through (m) [Not applicable to Model M001]

AM1.2710 Engine Control Systems

(a) Applicability.

These requirements apply to any system or device that is part of the engine type design that controls, limits, monitors, or protects engine operation and is necessary for the continued airworthiness of the engine.

(b) Engine control.

The engine control system must ensure the engine does not experience any unacceptable operating characteristics or exceed its operating limits, including in failure conditions where the fault or failure results in a change from one control mode to another, from one channel to another, or from the primary system to the back-up system, if applicable.

(c) Design assurance.

The software and complex electronic hardware, including programmable logic devices, must be—

(1) Designed and developed using a structured and systematic approach that provides a level of assurance for the logic commensurate with the hazard associated with the failure or malfunction of the systems in which the devices are located; and

(2) Substantiated by a verification methodology acceptable to the Administrator.

(d) Validation.

All functional aspects of the control system must be substantiated by test, analysis, or a combination thereof, to show that the engine control system performs the intended functions throughout the declared operational envelope.

(e) Environmental limits.

Environmental limits that cannot be adequately substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in AM1.2727.

(f) Engine control system failures.

The engine control system must—

(1) Have a maximum rate of Loss of Power Control (LOPC) that is suitable for the intended aircraft application;

(2) When in the full-up configuration, be single fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects; and

(4) Not have any likely failures or malfunctions that lead to local events in the intended aircraft application.

(g) System-safety assessment.

The applicant must perform a system-safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure the assessment of the engine control system safety is valid.

(h) Protection systems.

The engine control devices and systems' design and function, together with engine instruments, operating instructions, and maintenance instructions, must ensure that engine operating limits will not be exceeded in-service.

(i) Aircraft-supplied data.

Any single failure leading to loss, interruption, or corruption of aircraft-supplied data (other than power command signals from the aircraft), or aircraft-supplied data shared between engine systems within a single engine or between fully independent engine systems, must—

(1) Not result in a hazardous engine effect, as defined in AM1.2717(d)(2), for any engine installed on the aircraft; and

(2) Be able to be detected and accommodated by the control system.

(j) Engine control system electrical power.

(1) The engine control system must be designed such that the loss, malfunction, or interruption of the control system electrical power source will not result in a hazardous engine effect, as defined in AM1.2717(d)(2), the unacceptable transmission of erroneous data, or continued engine operation in the absence of the control function. The engine control system must be capable of resuming normal operation when aircraft-supplied power returns to within the declared limits.

(2) The applicant must identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine control system for starting and operating the engine, including transient and steady-state voltage limits, or electrical power supplied from the engine to the aircraft via energy regeneration, and any other characteristics necessary for safe operation of the engine.

§ 33.29 Instrument connection.

(a), (e), and (g) [Applicable to Model M001]

(b) through (d) and (h) [Not applicable to the Model M001]

AM1.2711 Instrument Connection

(a) In addition, as part of the system-safety assessment of AM1.2710(g) and AM1.2733(g), the applicant must assess the possibility and subsequent effect of incorrect fit of instruments, sensors, or connectors. Where practicable, the applicant must take design precautions to prevent incorrect configuration of the system.

(b) The applicant must provide instrumentation enabling the flightcrew to monitor the functioning of the engine cooling system unless evidence shows that:

(1) Other existing instrumentation provides adequate warning of failure or impending failure;

(2) Failure of the cooling system would not lead to hazardous engine effects before detection; or

(3) The probability of failure of the cooling system is extremely remote.

AM1.2712 Stress Analysis

(a) A mechanical, thermal, and electromagnetic stress analysis must show a sufficient design margin to prevent unacceptable operating characteristics and hazardous engine effects.

(b) Maximum stresses in the engine must be determined by test, validated analysis, or a combination thereof, and must be shown not to exceed minimum material properties.

AM1.2713 Critical and Life-Limited Parts

(a) The applicant must show, by a safety analysis or means acceptable to the Administrator, whether rotating or moving components, bearings, shafts, static parts, and non-redundant mount components should be classified, designed, manufactured, and managed throughout their service life as critical or life-limited parts.

(1) *Critical part* means a part that must meet prescribed integrity specifications to avoid its primary failure, which is likely to result in a hazardous engine effect as defined in AM1.2717(d)(2).

(2) *Life-limited parts* may include but are not limited to a rotor and major structural static part, the failure of which can result in a hazardous engine effect due to low-cycle fatigue (LCF) mechanism or any LCF-driven mechanism coupled with creep, or other failure mode. A life limit is an operational limitation that specifies the maximum allowable number of flight cycles that a part can endure before the applicant must remove it from the engine.

(b) In establishing the integrity of each critical part or life-limited part, the applicant must provide to the Administrator the following three plans for approval: an engineering plan, a manufacturing plan, and a service-management plan, as defined in § 33.70.

AM1.2714 Lubrication System

(a) The lubrication system must be designed and constructed to function properly between scheduled maintenance intervals in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) The lubrication system must be designed to prevent contamination of the engine bearings and lubrication system components.

(c) The applicant must demonstrate by test, validated analysis, or a combination thereof, the unique lubrication attributes and functional capability of paragraphs (a) and (b) of this section.

AM1.2715 Power Response

The design and construction of the engine, including its control system, must enable an increase—

(a) From the minimum power setting to the highest rated power without detrimental engine effects;

(b) From the minimum obtainable power while in flight, and while on the ground, to the highest rated power within a time interval determined to be safe for aircraft operation; and

(c) From the minimum torque to the highest rated torque without detrimental engine or aircraft effects, to ensure aircraft structural integrity or aircraft aerodynamic characteristics are not exceeded.

AM1.2716 Continued Rotation

If the design allows any of the engine main rotating systems to continue to rotate after the engine is shut down while in-flight, this continued rotation must not result in hazardous engine effects, as specified in AM1.2717(d)(2).

§ 33.75 Safety analysis.

(a)(1) through (a)(2), (d), (e), and (g)(2) [Applicable to Model M001]

(a)(3) through (c), (f), (g)(1), and (g)(3) [Not applicable to Model M001]

AM1.2717 Safety Analysis

(a) The applicant must comply with § 33.75(a)(2) using the failure definitions in paragraph (d) of this section.

(b) If the failure of such elements is likely to result in hazardous engine effects, then the applicant may show compliance by reliance on the prescribed integrity requirements such as § 33.15, AM1.2709, AM1.2713, or combinations thereof, as applicable. The failure of such elements and associated

prescribed integrity requirements must be stated in the safety analysis.

(c) The applicant must comply with § 33.75(d) and (e) using the failure definitions in paragraph (d) of this section.

(d) Unless otherwise approved by the Administrator, the following definitions apply to the engine effects when showing compliance with this condition:

(1) A minor engine effect does not prohibit the engine from meeting its type-design requirements and the intended functions in a manner consistent with § 33.28(b)(1)(i), (b)(1)(iii), and (b)(1)(iv), and the engine complies with the operability requirements such as AM1.2715, AM1.2725, and AM1.2731, as appropriate.

(2) The engine effects in § 33.75(g)(2) are hazardous engine effects with the addition of:

(i) Electrocution of the crew, passengers, operators, maintainers, or others; and

(ii) Blockage of cooling systems that are required for the engine to operate within temperature limits.

(3) Any other engine effect is a major engine effect.

(e) The intended aircraft application must be taken into account to assure that the analysis of the engine system safety is valid.

AM1.2718 Ingestion

(a) Ingestion from likely sources (foreign objects, birds, ice, hail) must not result in hazardous engine effects defined by AM1.2717(d)(2), or unacceptable power loss.

(b) Rain ingestion must not result in an abnormal operation such as shutdown, power loss, erratic operation, or power oscillations throughout the engine operating range.

(c) If the design of the engine relies on features, attachments, or systems that the installer may supply, for the prevention of unacceptable power loss or hazardous engine effects following potential ingestion, then the features, attachments, or systems must be documented in the engine installation manual.

(d) Ingestion sources that are not evaluated must be declared in the engine installation manual.

AM1.2719 Liquid Systems

(a) Each liquid system used for lubrication or cooling of engine components must be designed and constructed to function properly in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) If a liquid system used for lubrication or cooling of engine components is not self-contained, the interfaces to that system must be defined in the engine installation manual.

(c) The applicant must establish by test, validated analysis, or a combination of both, that all static parts subject to significant gas or liquid pressure loads will not:

(1) Exhibit permanent distortion beyond serviceable limits or exhibit leakage that could create a hazardous condition when subjected to normal and maximum working pressure with margin.

(2) Exhibit fracture or burst when subjected to the greater of maximum possible pressures with margin.

(d) Compliance with paragraph (c) of this section must take into account:

(1) The operating temperature of the part;

(2) Any other significant static loads in addition to pressure loads;

(3) Minimum properties representative of both the material and the processes used in the construction of the part; and

(4) Any adverse physical geometry conditions allowed by the type design, such as minimum material and minimum radii.

(e) Approved coolants and lubricants must be listed in the engine installation manual.

AM1.2720 Vibration Demonstration

(a) The engine must be designed and constructed to function throughout its normal operating range of rotor speeds and engine output power, including defined exceedances, without inducing excessive stress in any of the engine parts because of vibration and without imparting excessive vibration forces to the aircraft structure.

(b) Each engine design must undergo a vibration survey to establish that the vibration characteristics of those components that may be subject to induced vibration are acceptable throughout the declared flight envelope and engine operating range for the specific installation configuration. The possible sources of the induced vibration that the survey must assess are mechanical, aerodynamic, acoustical, or electromagnetic. This survey must be shown by test, validated analysis, or a combination thereof.

AM1.2721 Overtorque

When approval is sought for a transient maximum engine overtorque, the applicant must demonstrate by test, validated analysis, or a combination thereof, that the engine can continue operation after operating at the maximum engine overtorque condition without maintenance action. Upon conclusion of overtorque tests conducted to show compliance with this subpart, or any other tests that are conducted in combination with the overtorque test, each engine part or individual groups of components must meet the requirements of AM1.2729.

AM1.2722 Calibration Assurance

Each engine must be subjected to calibration tests to establish its power characteristics and the conditions both before and after the endurance and durability demonstrations specified in AM1.2723 and AM1.2726.

AM1.2723 Endurance Demonstration

(a) The applicant must subject the engine to an endurance demonstration, acceptable to the Administrator, to demonstrate the engine's limit capabilities.

(b) The endurance demonstration must include increases and decreases of the engine's power settings, energy regeneration, and dwellings at the power settings or energy regeneration for durations that produce the extreme physical conditions the engine experiences at rated performance levels, operational limits, and at any other conditions or power settings that are required to verify the limit capabilities of the engine.

AM1.2724 Temperature Limit

The engine design must demonstrate its capability to endure operation at its temperature limits plus an acceptable margin. The applicant must quantify and justify to the Administrator the margin at each rated condition. The demonstration must be repeated for all declared duty cycles and associated ratings, and operating environments, that would impact temperature limits.

AM1.2725 Operation Demonstration

The engine design must demonstrate safe operating characteristics, including but not limited to power cycling, starting, acceleration, and overspeeding throughout its declared flight envelope and operating range. The declared engine operational characteristics must account for installation loads and effects.

AM1.2726 Durability Demonstration

The engine must be subjected to a durability demonstration to show that each part of the engine has been designed and constructed to minimize any unsafe condition of the system between overhaul periods or between engine replacement intervals if the

overhaul is not defined. This test must simulate the conditions in which the engine is expected to operate in-service, including typical start-stop cycles.

AM1.2727 System and Component Tests

The applicant must show that systems and components will perform their intended functions in all declared environmental and operating conditions.

AM1.2728 Rotor Locking Demonstration

If shaft rotation is prevented by locking the rotor(s), the engine must demonstrate:

(a) Reliable rotor locking performance;

(b) Reliable unlocking performance; and

(c) That no hazardous engine effects, as specified in AM1.2717(d)(2), will occur.

AM1.2729 Teardown Inspection

The applicant must comply with either paragraph (a) or (b) of this section as follows:

(a) Teardown evaluation.

(1) After the endurance and durability demonstrations have been completed, the engine must be completely disassembled. Each engine component and lubricant must be within service limits and eligible for continued operation in accordance with the information submitted for showing compliance with AM1.1529.

(2) Each engine component having an adjustment setting and a functioning characteristic that can be established independent of installation on or in the engine must retain each setting and functioning characteristic within the established and recorded limits at the beginning of the endurance and durability demonstrations.

(b) Non-Teardown evaluation.

If a teardown is not performed for all engine components, then the life limits for these components and lubricants must be established based on the endurance and durability demonstrations and documented in the Instructions for Continued Airworthiness in accordance with AM1.1529.

AM1.2730 Containment

The engine must provide containment features that protect against likely hazards from rotating components as follows—

(a) The design of the case surrounding rotating components must provide for the containment of the rotating components in the event of failure, unless the applicant shows that the margin to rotor burst precludes the possibility of a rotor burst.

(b) If the margin to rotor burst shows that the case must have containment features in the event of failure, the case must provide for the containment of the failed rotating components. The applicant must define by test, validated analysis, or a combination thereof, and document in the engine installation manual, the energy level, trajectory, and size of fragments released from damage caused by the rotor failure, and that pass forward or aft of the surrounding case.

AM1.2731 Operation With a Variable-Pitch Propeller

The applicant must conduct functional demonstrations including feathering, negative torque, negative thrust, and reverse thrust operations, as applicable, with a representative propeller. These demonstrations may be conducted in a manner acceptable to the Administrator as part of the endurance, durability, and operation demonstrations.

AM1.2732 General Conduct of Tests

(a) Maintenance of the engine may be made during the tests in accordance with the service and maintenance instructions submitted in compliance with AM1.1529.

(b) The applicant must subject the engine or its parts to maintenance and additional tests that the Administrator finds necessary if—

(1) The frequency of the service is excessive;

(2) The number of stops due to engine malfunction is excessive;

(3) Major repairs are needed; or

(4) Replacement of a part is found necessary during the tests or due to the teardown inspection findings.

(c) Upon completion of all demonstrations and testing specified in these airworthiness criteria, the engine and its components must be—

(1) Within serviceable limits;

(2) Safe for continued operation; and

(3) Capable of operating at declared ratings while remaining within limits.

AM1.2733 Engine Electrical Systems

(a) Applicability.

Any system or device that provides, uses, conditions, or distributes electrical power, and is part of the engine type design, must provide for the continued airworthiness of the engine and maintain electric engine ratings.

(b) Electrical systems.

The electrical system must ensure the safe generation and transmission of power, electrical load shedding, and the engine does not experience any unacceptable operating characteristics or exceed its operating limits.

(c) Electrical-power distribution.

(1) The engine electrical-power distribution system must be designed to provide the safe transfer of electrical energy throughout the electrical power plant. The system must be designed to provide electrical power so that the loss, malfunction, or interruption of the electrical power source will not result in a hazardous engine effect, as defined in AM1.2717(d)(2).

(2) The system must be designed and maintained to withstand normal and abnormal conditions during all ground and flight operations.

(3) The system must provide mechanical or automatic means of isolating a faulted electrical-energy generation or storage device from affecting the safe transmission of electric energy to the electric engine.

(d) Protection systems.

The engine electrical devices and systems must interrupt transmission of electrical power when power conditions exceed design limits.

(1) The engine electrical system must be designed such that the loss, malfunction, or interruption of the electrical power source will not result in a hazardous engine effect, as defined in AM1.2717(d)(2).

(2) The applicant must identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine, or electrical power supplied to the aircraft from the engine from energy regeneration, systems for starting and operating the engine, including transient and steady-state voltage limits, and any other characteristics necessary for safe operation of the engine.

(e) Environmental limits.

Environmental limits that cannot be adequately substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in AM1.2727.

(f) Electrical-system failures.

The engine electrical system must—

(1) Have a maximum rate of Loss of Power Control (LOPC) that is suitable for the intended aircraft application;

(2) When in the full-up configuration, be single fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects; and

(4) Not have any likely failure or malfunction that leads to local events in the intended aircraft application.

(g) System-safety assessment.

The applicant must perform a system-safety assessment. This assessment must

identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure the assessment of the engine system safety is valid.

SUBPART I—Propeller Requirements

AM1.2805 Propeller Ratings and Operating Limitations

Propeller ratings and operating limitations must be established by the applicant and approved by the Administrator, including ratings and limitations based on the operating conditions and information specified in this subpart, as applicable, and any other information found necessary for safe operation of the propeller.

§ 35.7 Features and characteristics.

(a) through (b) [Applicable to Model M001]

AM1.2815 Safety Analysis

(a) The applicant must:

(1) Analyze the propeller system to assess the likely consequences of all failures that can reasonably be expected to occur. This analysis will take into account, if applicable:

(i) The propeller system when installed on the aircraft. When the analysis depends on representative components, assumed interfaces, or assumed installed conditions, the assumptions must be stated in the analysis.

(ii) Consequential secondary failures and dormant failures.

(iii) Multiple failures referred to in paragraph (d) of this section, or that result in the hazardous propeller effects defined in paragraph (g)(1) of this section.

(2) Summarize those failures that could result in major propeller effects or hazardous propeller effects defined in paragraph (g) of this section, and estimate the probability of occurrence of those effects.

(3) Show that hazardous propeller effects are not predicted to occur at a rate in excess of that defined as extremely remote (probability of 10^{-7} or less per propeller flight hour). Because the estimated probability for individual failures may be insufficiently precise to enable the applicant to assess the total rate for hazardous propeller effects, compliance may be shown by demonstrating that the probability of a hazardous propeller effect arising from an individual failure can be predicted to be not greater than 10^{-8} per propeller flight hour. In dealing with probabilities of this low order of magnitude, absolute proof is not possible, and reliance must be placed on engineering judgment and previous experience, combined with sound design and test philosophies.

(b) If significant doubt exists as to the effects of failures or likely combination of failures, the Administrator may require assumptions used in the analysis to be verified by test.

(c) The primary failures of certain single propeller elements (for example, blades) cannot be sensibly estimated in numerical terms. If the failure of such elements is likely to result in hazardous propeller effects, those elements must be identified as propeller critical parts. For propeller critical parts, the applicant must meet the prescribed integrity specifications of AM1.2816. These instances must be stated in the safety analysis.

(d) If reliance is placed on a safety system to prevent a failure progressing to hazardous propeller effects, the possibility of a safety system failure, in combination with a basic propeller failure, must be included in the analysis. Such a safety system may include safety devices, instrumentation, early warning devices, maintenance checks, and other similar equipment or procedures.

(e) If the safety analysis depends on one or more of the following items, those items must be identified in the analysis and appropriately substantiated.

(1) Maintenance actions being carried out at stated intervals. This includes verifying that items that could fail in a latent manner are functioning properly. When necessary to prevent hazardous propeller effects, these maintenance actions and intervals must be published in the Instructions for Continued Airworthiness required under AM1.1529. Additionally, if errors in maintenance of the propeller system could lead to hazardous propeller effects, the appropriate maintenance procedures must be included in the relevant propeller manuals.

(2) Verification of the satisfactory functioning of safety or other devices at pre-flight or other stated periods. The details of this satisfactory functioning must be published in the appropriate manual.

(3) The provision of specific instrumentation not otherwise required. Such instrumentation must be published in the appropriate documentation.

(4) A fatigue assessment.

(f) If applicable, the safety analysis must include, but not be limited to, assessment of indicating equipment, manual and automatic controls, governors and propeller-control systems, synchrophasers, synchronizers, and propeller thrust reversal systems.

(g) Unless otherwise approved by the Administrator and stated in the safety analysis, the following failure definitions apply to compliance with these airworthiness criteria.

(1) The following are regarded as hazardous propeller effects:

(i) The development of excessive drag.

(ii) A significant thrust in the opposite direction to that commanded by the pilot.

(iii) The release of the propeller or any major portion of the propeller.

(iv) A failure that results in excessive unbalance.

(2) The following are regarded as major propeller effects for variable-pitch propellers:

(i) An inability to feather the propeller for feathering propellers.

(ii) An inability to change propeller pitch when commanded.

(iii) A significant uncommanded change in pitch.

(iv) A significant uncontrollable torque or speed fluctuation.

AM1.2816 Propeller Critical Parts

The integrity of each propeller critical part identified by the safety analysis required by AM1.2815 must be established by:

(a) A defined engineering process for ensuring the integrity of the propeller critical part throughout its service life,

(b) A defined manufacturing process that identifies the requirements to consistently produce the propeller critical part as required by the engineering process, and

(c) A defined service-management process that identifies the continued airworthiness requirements of the propeller critical part as required by the engineering process.

§ 35.17 Materials and manufacturing methods.

(a) through (c) [Applicable to Model M001]

§ 35.19 Durability.

[Applicable to Model M001]

AM1.2821 Variable- and Reversible-Pitch Propellers

(a) No single failure or malfunction in the propeller system will result in unintended travel of the propeller blades to a position below the in-flight low-pitch position. The extent of any intended travel below the in-flight low-pitch position must be documented by the applicant in the appropriate manuals. Failure of structural elements need not be considered if the occurrence of such a failure is shown to be extremely remote under AM1.2815.

(b) For propellers incorporating a method to select blade pitch below the in-flight low-pitch position, provisions must be made to sense and indicate to the flightcrew that the propeller blades are below that position by an amount defined in the installation instructions. The method for sensing and indicating the propeller blade pitch position must be such that its failure does not affect the control of the propeller.

§ 35.22 Feathering propellers.

(a) through (c) [Applicable to Model M001]

AM1.2823 Propeller Control System

The requirements of this section apply to any system or component that controls, limits, or monitors propeller functions.

(a) The propeller control system must be designed, constructed and validated to show that:

(1) The propeller control system, operating in normal and alternative operating modes and in transition between operating modes, performs the functions defined by the applicant throughout the declared operating conditions and flight envelope.

(2) The propeller control system functionality is not adversely affected by the declared environmental conditions, including temperature, electromagnetic interference (EMI), high intensity radiated fields (HIRF), and lightning. The environmental limits to which the system has been satisfactorily validated must be documented in the appropriate propeller manuals.

(3) A method is provided to indicate that an operating mode change has occurred if flightcrew action is required. In such an event, operating instructions must be provided in the appropriate manuals.

(b) The propeller control system must be designed and constructed so that, in addition to compliance with AM1.2815:

(1) No single failure results in a hazardous propeller effect; and

(2) No likely failures or malfunctions lead to local events in the intended aircraft installation.

(c) Electronic propeller-control-system embedded software must be designed and implemented by a method approved by the Administrator that is consistent with the criticality of the performed functions and that minimizes the existence of software errors.

(d) The propeller control system must be designed and constructed so that the failure or corruption of aircraft-supplied data does not result in hazardous propeller effects.

(e) The propeller control system must be designed and constructed so that the loss, interruption, or abnormal characteristic of aircraft-supplied electrical power does not result in hazardous propeller effects. The power quality requirements must be described in the appropriate manuals.

§ 35.24 Strength.

[Applicable to Model M001]

§ 35.33 General.

(a) through (c) [Applicable to Model M001]

§ 35.34 Inspections, adjustments, and repairs.

(a) through (b) [Applicable to Model M001]

§ 35.35 Centrifugal load tests.

(a) through (c) [Applicable to Model M001]

§ 35.36 Bird impact.

[Applicable to Model M001]

§ 35.37 Fatigue limits and evaluation.

(a) through (c) [Applicable to Model M001, except replace the reference to § 35.15 with AM1.2815, and the reference to ''§ 23.2400(c) or § 25.907'' with AM1.2400(c)]

§ 35.38 Lightning strike.

[Applicable to Model M001]

§ 35.39 Endurance test.

(a) through (c) [Applicable to Model M001, except replace the reference to ''part 33'' with ''these airworthiness criteria'']

AM1.2840 Functional Test

The variable-pitch propeller system must be subjected to the applicable functional tests of this section. The same propeller system used in the endurance test of § 35.39 must be used in the functional tests and must be driven by a representative engine on a test stand or on the aircraft. The propeller must complete these tests without evidence of failure or malfunction. This test may be combined with the endurance test for accumulation of cycles.

(a) Governing and reversible-pitch propellers. Thirteen-hundred complete cycles must be made across the range of forward pitch and rotational speed. In addition, 200 complete cycles of control must be made from lowest normal pitch to maximum reverse pitch. During each cycle, the propeller must run for 30 seconds at the maximum power and rotational speed selected by the applicant for maximum reverse pitch.

(b) Feathering propellers. Fifty cycles of feather and unfeather operation must be made.

(c) An analysis based on tests of propellers of similar design may be used in place of the tests of this section.

§ 35.41 Overspeed and overtorque.

(a) through (b) [Applicable to Model M001]

§ 35.42 Components of the propeller control system.

[Applicable to Model M001]

§ 35.43 Propeller hydraulic components.

(a) through (b) [Applicable to Model M001]

Appendix A to Part 23—Instructions for Continued Airworthiness

A23.1 through A23.3(g) and A23.4 [Applicable to Model M001]

A23.3(h) [Not applicable to Model M001]

Appendix A1—Instructions for Continued Airworthiness (Electric Engine)

AAM1.2701 General

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness for the engines as required by AM1.1529.

(b) The Instructions for Continued Airworthiness for the engine must include the Instructions for Continued Airworthiness for all engine parts.

(c) The applicant must submit to the FAA a program to show how the applicant's changes to the Instructions for Continued Airworthiness will be distributed, if applicable.

A33.2 Format

(a) through (b) [Applicable to Model M001]

A33.3 Content

(a) and (b) [Applicable to Model M001]

(c) [Not applicable to Model M001]

A33.4 Airworthiness Limitations Section

(a) [Applicable to Model M001]

(b) [Not applicable to Model M001]

Appendix A2—Instructions for Continued Airworthiness (Propellers)

AAM1.2801 General

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness for the propellers as required by AM1.1529.

(b) The Instructions for Continued Airworthiness for the propeller must include the Instructions for Continued Airworthiness for all propeller parts.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of propeller parts will be distributed, if applicable.

A35.2 Format

(a) through (b) [Applicable to Model M001]

A35.3 Content

(a) through (b) [Applicable to Model M001]

A35.4 Airworthiness Limitations Section

[Applicable to Model M001]

Issued in Washington, DC, on December 12, 2022.

Victor W. Wicklund,

Acting Director, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–27445 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1650; Project Identifier MCAI–2022–00210–T]

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: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A11 airplanes. This proposed AD was prompted by a report that the nose radome lightning diverter strips on certain aircraft were painted in production; paint on the diverter strips can compromise the nose radome lightning protection. This proposed AD would require inspecting for paint on the diverter strips on the nose radome, and replacing the nose radome if necessary, as specified in a Transport Canada 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 3, 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–2022–1650; 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 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.* It is also available at regulations.gov under Docket No. FAA–2022–1650.
- For service information identified in this NPRM, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; website *a220world.airbus.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1650; Project Identifier MCAI–2022–00210–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 Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2022–04, dated February 14, 2022 (Transport Canada AD CF–2022–04) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A11 airplanes. The MCAI states that the radome lightning diverter strips on certain aircraft were painted in production; paint on the diverter strips can compromise the radome lightning protection. Reduced effectiveness of the diverter strips can lead to the puncture of the nose radome by lightning and potential arc attachment to antennas, structures, and other equipment in the area of the radome. The unsafe condition, if not addressed, could result in damage to the localizer or glideslope antennas, and consequent loss of instrument landing system localizer inputs or deviation information.

The FAA is proposing 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–2022–1650.

Related Service Information Under 1 CFR Part 51

Transport Canada AD CF–2022–04 specifies procedures for inspecting for paint on the lightning diverter strips on the nose radome, and replacing the nose radome if the lightning diverter strips are painted.

The FAA also reviewed Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022. This service information specifies procedures for inspecting for paint on the lightning diverter strips on the nose radome, and replacing and painting the nose radome if the lightning diverter strips are painted.

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 require accomplishing the actions specified in Transport Canada AD CF–2022–04 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Additional Method of Compliance

Transport Canada AD CF–2022–04 requires removing and replacing the radome in accordance with certain aircraft maintenance publication (AMP) data modules (DM). After Transport Canada issued AD CF–2022–04, Airbus Canada issued Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 001, dated April 8, 2022; and Issue 002, dated June 2, 2022, which also describes procedures for removing and replacing the radome. This proposed AD would therefore also allow accomplishing those actions in accordance with Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2022–04 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2022–04 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information required by Transport Canada AD CF–2022–04 for compliance will be available at *regulations.gov* under Docket No. FAA–2022–1650 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 7 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	* $0	$510	$3,570

* The FAA has received no definitive data on which to base the parts cost estimate for the radome replacement.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA–2022–1650; Project Identifier MCAI–2022–00210–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 3, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership Model BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2022–04, dated February 14, 2022 (Transport Canada AD CF–2022–04).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that the radome lightning diverter strips on certain aircraft were painted in production; paint on the diverter strips can compromise the radome lightning protection. The FAA is issuing this AD to address reduced effectiveness of the diverter strips, which can lead to the puncture of the nose radome by lightning and potential arc attachment to antennas, structures, and other equipment in the area of the radome. The unsafe condition, if not addressed, could result in damage to the localizer or glideslope antennas, and consequent loss of instrument landing system localizer inputs or deviation information.

(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–2022–04.

(h) Exceptions To Transport Canada AD CF–2022–04

(1) Where Transport Canada AD CF–2022–04 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2022–04 specifies removing and installing a radome using certain aircraft maintenance publication data modules, this AD also allows accomplishing those actions in accordance with Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 001, dated May 9, 2022.

(j) 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 or email to: *9-avs-nyaco-cos@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, 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.

(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 Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; email *9-avs-nyaco-cos@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 Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022.

(ii) Transport Canada AD CF–2022–04, dated February 14, 2022.

(3) For Transport Canada AD CF–2022–04, 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) For service information identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email a220_ website *a220world.airbus.com.*

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

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

Issued on December 15, 2022.

Christina Underwood,

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

[FR Doc. 2022–27565 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 399

[Docket No. DOT–OST–2022–0109]

RIN 2105–AF10

Enhancing Transparency of Airline Ancillary Service Fees

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT or the Department).

ACTION: Extension of comment period.

SUMMARY: The U.S. Department of Transportation (Department or DOT) is extending through January 23, 2023, the period for interested persons to submit comments to its proposed rule on Enhancing Transparency of Airline Ancillary Service Fees.

DATES: Comments should be filed by January 23, 2023. Late-filed comments will be considered to the extent practicable. Petitions for a hearing pursuant to 14 CFR 399.75(b)(1) must also be filed by January 23, 2023.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2022–0109 by any of the following methods:

• *Federal eRulemaking Portal:* go to *https://www.regulations.gov* and follow

the online instructions for submitting comments.

• *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Commenters using this method of delivery should contact Docket Services at 202–366–9826 or 202–366–9317 before delivery to ensure staff is available to receive the delivery.

• *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2022–0109 or the Regulatory Identification Number (RIN 2105–AF10) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents and comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Ryan Patanaphan or Blane Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342 (phone), *ryan.patanaphan@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION: On September 26, 2022, the Department of Transportation (Department) publicly announced and posted to its website a notice of proposed rulemaking (NPRM) that proposed several disclosure requirements to enhance the transparency of ancillary service fees that consumers pay for when they purchase airline tickets. (See 87 FR 63718; October 20, 2022). In the NPRM, the Department proposed to require U.S. air carriers, foreign air carriers, and ticket agents to clearly disclose passenger-specific or itinerary-specific baggage fees, change fees, and cancellation fees to consumers whenever fare and schedule information is provided to consumers for flights to, within, and from the United States. The Department also proposed requiring similar disclosures for fees for a child 13 or under to be seated adjacent to an accompanying adult, as well as the transactability of such seating fees. The proposed rule would require carriers to provide useable, current, and accurate information regarding fees to ticket agents that sell or display the carrier's fare and schedule information. The NPRM provided for a comment period of 60 days after publication of the NPRM in the **Federal Register**, *i.e.,* December 19, 2022.

Since the publication of the NPRM, several commenters have requested that the Department extend the comment period given the complexity of the proposals. Airlines for America (A4A) and International Air Transportation Association (IATA) filed a joint request for the Department to extend the comment period by 60 days given the expansive scope and complexity of the NPRM. The Travel Technology Association, the American Society of Travel Advisors, and Global Business Travel Association also filed a joint request asking for a 60-day extension primarily because of the complexity of the issues and noted that developing fully responsive comments that the Department will find most useful will take more time. The National Air Carrier Association and Sabre Corporation also separately requested an additional 60 days. Further, on December 8, 2022, during a public meeting of the Aviation Consumer Protection Advisory Committee (ACPAC) to discuss this rulemaking, the consumer representative of the ACPAC stated that he does not oppose the requests for an extension. A4A and IATA have also asked for clarification on various issues in the NPRM. The Department's responses to the questions raised by airlines will be posted in the rulemaking docket at *https://www.regulations.gov,* docket DOT–OST–2022–0109.

The Department has reviewed the requests for extension of the comment period and has determined to extend the comment period for the proposed rule from December 19, 2022, to January 23, 2023. The Department believes that granting a 35-day extension of the original comment period is sufficient to allow stakeholders to conduct a thorough and careful consideration of all potential impacts, including the Department's responses to the airlines' clarification requests, and prepare comments.

Signed in Washington, DC, on or about this 13th day of December 2022, under authority delegated at 49 U.S.C. 1.27(n).

John E. Putnam,

General Counsel.

[FR Doc. 2022–27416 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–9X–P

FEDERAL TRADE COMMISSION

16 CFR Part 260

RIN 3084–AB15

Guides for the Use of Environmental Marketing Claims

AGENCY: Federal Trade Commission.

ACTION: Regulatory review; request for public comment.

SUMMARY: Pursuant to its decennial regulatory review schedule, the Federal Trade Commission (''FTC'' or ''Commission'') requests public comment on its Guides for the Use of Environmental Marketing Claims (''Green Guides'' or ''Guides''). The Commission is soliciting comments about the efficiency, costs, benefits, and regulatory impact of the Guides to determine whether to retain, modify, or rescind them. All interested persons are hereby given notice of the opportunity to submit written data, views, and arguments concerning the Guides.

DATES: Comments must be received on or before February 21, 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 ''Green Guides Review, Matter No. P954501'' 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: Hampton Newsome (202–326–2889) or Julia Solomon Ensor (202–326–2377), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. The Green Guides

First issued in 1992 and most recently revised in 2012, the Commission's Guides for Use of Environmental

Marketing Claims, 16 CFR part 260 (''Green Guides'' or the ''Guides''), address the applicability of section 5 of the FTC Act, 15 U.S.C. 45(a) (''section 5'') to environmental advertising and labeling claims.[1] The Green Guides outline general principles applicable to all environmental marketing claims, and provide specific guidance regarding many common environmental benefit claims. For each claim covered, the Guides: (1) explain how reasonable consumers likely interpret it; (2) describe the basic elements necessary to substantiate it; and (3) present options for qualifications to avoid deception.[2]

Although the illustrative qualifications provide examples for marketers seeking to make non-deceptive claims, they do not represent the only permissible approaches. As administrative interpretations of the law, the Guides themselves are not enforceable. In any enforcement action, the Commission must prove the challenged act or practice is unfair or deceptive in violation of section 5.

II. Regulatory Review of the Green Guides

The Commission reviews all of its rules and guides periodically to: (1) examine their efficacy, costs, and benefits; and (2) determine whether to retain, modify, or rescind them. The Commission completed its most recent Green Guides review a decade ago (77 FR 62122 (Oct. 11, 2012)). With the present document, the Commission commences a new review.

The Commission seeks comment on several general issues, which are addressed in section III.A. of this document, including the continuing need for the Guides, their economic impact, and their effect on the accuracy of various environmental claims. section III.A. also seeks comment on the Guides' interaction with other environmental marketing regulations, and whether the Commission should consider rulemaking to establish independently enforceable requirements related to unfair and deceptive environmental claims. Since the Commission's 2012 revisions, increased attention to environmental concerns, including climate change and issues driven by the COVID–19 public health crisis, have likely encouraged continued environmental claims related to various products, packaging, services, and manufacturing processes. The Commission notes the proliferation of environmental benefit claims includes claims not currently addressed in the Guides. Accordingly, this review is important to ensure the Guides reflect changes in the marketplace over time.

The Commission also seeks to ensure the Guides appropriately respond to changes in consumer perception. As the Commission recognized in 1992, science and technology in the environmental area change constantly, and new developments might affect consumer perception. Thus, in section III.B., the Commission solicits specific consumer survey evidence and consumer perception data addressing environmental claims, including claims not currently covered by the Guides.

III. Issues for Comment

The Commission requests written comment on the following questions, including whether the Commission should initiate a proceeding to consider a rulemaking relating to environmental benefit claims under its FTC Act authority.[3] Responses should be as specific as possible, and reference the question being answered, as well as empirical data or other evidence wherever available and appropriate. Additionally, the Commission also invites comments on any issues related to the Green Guides not specifically mentioned in the questions below.

A. General Issues

1. Is there a continuing need for the Guides? Why or why not?

2. What benefits have the Guides provided to consumers? What evidence supports the asserted benefits?

3. What modifications, if any, should be made to the Guides to increase their benefits to consumers?

a. What evidence supports your proposed modifications?

b. How would these modifications affect the costs the Guides impose on businesses, particularly on small businesses?

c. How would these modifications affect benefits to consumers?

4. What impact have the Guides had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?

5. What significant costs have the Guides imposed on consumers and/or consumer and environmental organizations? What evidence supports the asserted costs?

6. What modifications, if any, should the Commission make to the Guides to reduce the costs imposed on consumers?

a. What evidence supports your proposed modifications?

b. How would these modifications affect the benefits of the Guides?

7. Please provide any evidence that has become available since 2012 concerning consumer perception of environmental claims, including claims not currently covered by the Guides. Does this new information indicate the Guides should be modified? If so, why, and how? If not, why not?

8. Please provide any evidence that has become available since 2012 concerning consumer interest in particular environmental issues. Does this new information indicate the Guides should be modified? If so, why, and how? If not, why not?

9. What benefits, if any, have the Guides provided to businesses, particularly to small businesses? What evidence supports the asserted benefits?

10. What modifications, if any, should be made to the Guides to increase their benefits to businesses, particularly to small businesses?

a. What evidence supports your proposed modifications?

b. How would these modifications affect the costs the Guides impose on businesses, particularly small businesses?

c. How would these modifications affect the consumer benefits?

11. What significant costs, including costs of compliance, have the Guides imposed on businesses, particularly on small businesses? What evidence supports the asserted costs?

12. What modifications, if any, should be made to the Guides to reduce the

[1] The Commission issued the Green Guides in 1992 (57 FR 36363 (Aug. 13, 1992)), and subsequently revised them in 1996 (61 FR 53311 (Oct. 11, 1996)), 1998 (63 FR 24240 (May 1, 1998)), and 2012 (77 FR 62122 (Oct. 11, 2012)). The FTC administers several other environmental and energy-related rules and guides. *See* Guide Concerning Fuel Economy Advertising for New Automobiles (16 CFR part 259), Energy Labeling Rule (16 CFR part 305), Fuel Rating Rule (16 CFR part 306), Alternative Fuels and Alternative Fueled Vehicles Rule (16 CFR part 309), Recycled Oil Rule (16 CFR part 311), and Labeling and Advertising of Home Insulation Rule (16 CFR part 460).

[2] The Guides do not establish standards for environmental performance or prescribe testing protocols.

[3] Under section 18 of the FTC Act, 15 U.S.C. 57a, the Commission is authorized to prescribe ''rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce'' within the meaning of section 5(a)(1) of the Act. Among other things, the statute requires that Commission rulemaking proceedings provide an opportunity for informal hearings at which interested parties are accorded limited rights of cross-examination. Before commencing a rulemaking proceeding, the Commission must have reason to believe that the practices to be addressed by the rulemaking are ''prevalent.'' 15 U.S.C. 57a(b)(3). Once the Commission has promulgated a trade regulation rule, anyone who violates the rule ''with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive and is prohibited by such rule'' is liable for civil penalties for each violation. The Commission obtains such penalties by referring a suit to the Department of Justice for filing in federal district court under section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A).

costs imposed on businesses, particularly on small businesses?

a. What evidence supports your proposed modifications?

b. How would these modifications affect the consumer benefits provided by the Guides?

13. What evidence is available concerning the degree of industry compliance with the Guides?

a. To what extent has there been a reduction in deceptive environmental claims since the Guides were issued? Please provide any supporting evidence. Does this evidence indicate the Guides should be modified? If so, why, and how? If not, why not?

b. To what extent have the Guides reduced marketers' uncertainty about which claims might lead to FTC law enforcement actions? Please provide any supporting evidence. Does this evidence indicate the Guides should be modified? If so, why, and how? If not, why not?

14. Are there claims addressed in the Guides on which guidance is no longer needed? If so, explain. Please provide supporting evidence.

15. What potentially unfair or deceptive environmental marketing claims, if any, are not covered by the Guides?

a. What evidence demonstrates the existence of such claims?

b. With reference to such claims, should the Guides be modified? If so, why, and how? If not, why not?

16. What modifications, if any, should be made to the Guides to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?

17. Do the Guides overlap or conflict with other federal, state, or local laws or regulations? If so, how?

a. What evidence supports the asserted conflicts?

b. With reference to the asserted conflicts, should the Guides be modified? If so, why, and how? If not, why not?

c. Is there evidence concerning whether the Guides have assisted in promoting national consistency with respect to the regulation of environmental claims? If so, please provide that evidence.

18. Are there international laws, regulations, or standards with respect to environmental marketing claims the Commission should consider as it reviews the Guides? If so, what are they? Should the Guides be modified to harmonize with these international laws, regulations, or standards? If so, why, and how? If not, why not?

19. Should the Commission initiate a proceeding to consider a rulemaking under the FTC Act related to deceptive or unfair environmental claims?

a. If so, which principles set out in the Green Guides should be incorporated into a rule? For each suggested provision, explain why and provide any evidence that supports your proposal.

b. Are there additional principles related to environmental claims not currently covered by the Guides that should be incorporated into a rule? For each suggested provision, explain why and provide any evidence that supports your proposal.

B. Specific Claims

The Commission seeks comments on specific issues that have generated increased attention and interest over the last several years. The following questions are designed to facilitate comment on those issues, and the inclusion or exclusion of any topic does not indicate that specific modifications to the Guides are currently under consideration.

1. Carbon Offsets and Climate Change, 16 CFR 260.5. The Guides currently include guidance relating to carbon offsets. Should the Commission consider revising this section or provide additional guidance addressing other types of advertising claims related to carbon offsets and/or climate change?

a. Are there any specific claims related to carbon offsets not currently addressed by the Green Guides that are appropriate for further consideration during the review?

b. What, if any, evidence is there of deceptive claims related to climate change in the market?

c. If such evidence exists, what specific guidance should the FTC provide to help marketers avoid deceptive claims?

d. Is there any consumer research available regarding consumer perception of climate change-related claims such as ''net zero,'' ''carbon neutral,'' ''low carbon,'' or ''carbon negative''?

e. Are there any specific deceptive claims related to climate change prevalent in the market?

f. If evidence of deception exists, what specific guidance should the FTC provide to help marketers avoid deceptive claims? What evidence supports your proposed revision?

2. Compostable, 16 CFR 260.7. The Guides currently advise marketers claiming products are ''compostable'' in municipal or institutional facilities that they should qualify such claims if appropriate facilities are not available to a substantial majority of consumers or communities where the item is sold. Should this guidance be revised to define ''substantial majority'' consistent with the ''recyclable'' section? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision(s)?

3. *Degradable, 16 CFR 260.8.* The Guides provide that an unqualified claim indicating a product or package is degradable, biodegradable, oxo-degradable, oxo-biodegradable, or photodegradable should be substantiated by competent and reliable scientific evidence demonstrating the entire item will completely break down and return to nature within a reasonably short period of time after customary disposal. For products customarily disposed in a landfill, ''reasonably short period of time'' is defined as one year.

a. Should the Commission revise the Guides to provide an alternative timeframe for product decomposition for all or any category of products? Does the timeframe differ for liquid products?

b. If so, why, and what should the timeframe be? If not, why not? What evidence supports your proposed revision(s)?

c. Should the Commission clarify or change existing guidance on degradable claims in light of its decision in the *ECM Biofilms* matter? [4] If so, how?

4. *Ozone-Safe/Ozone-Friendly, 16 CFR 260.11.* The Guides contain an example stating it is deceptive to label a product ''ozone-friendly'' if the product contains any ozone-depleting substance, including those substances listed as Class I or Class II chemicals in Title VI of the Clean Air Act Amendments of 1990, Public Law 101–549, and others subsequently designated by EPA as ozone-depleting substances. The Guides list chlorofluorocarbons (''CFCs''); halons; carbon tetrachloride; 1,1,1-trichloroethane; methyl bromide; hydrobromofluorocarbons; and hydrochlorofluorocarbons (''HCFCs'') as examples of such ozone-depleting substances. Should the Commission remove or revise this example given that it references ozone-depleting chemicals that the EPA now bans? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision(s)?

5. *Recyclable, 16 CFR 260.12.* Should the Commission revise the Guides to include updated guidance on ''recyclable'' claims? If so, why, and what guidance should be provided? If not, why not?

a. What evidence supports your proposed revision(s)?

b. What evidence is available concerning consumer understanding of the term ''recyclable''?

[4] *In the Matter of ECM BioFilms, Inc., a corporation, also d/b/a Enviroplastics International,* 160 F.T.C. 652 (2015).

c. What evidence constitutes a reasonable basis to support a ''recyclable'' claim?

6. *Recyclable, 16 CFR 260.12.* The Guides provide that marketers can make an unqualified ''recyclable'' claim when recycling facilities are available to a substantial majority of consumers or communities where the item is sold. ''Substantial majority'' is defined as 60%.

a. Should the Guides be revised to update the 60% threshold? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision? Is there any recent consumer perception research relevant to the 60% threshold?

b. Should the Guides be revised to include guidance related to unqualified ''recyclable'' claims for items collected by recycling programs for a substantial majority of consumers or communities but not ultimately recycled due to market demand, budgetary constraints, or other factors? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision?

7. *Recycled Content, 16 CFR 260.13.* The Guides state marketers may make ''recycled content'' claims only for materials recovered or otherwise diverted from the solid waste stream, either during the manufacturing process or after consumer use. Do the current Guides provide sufficient guidance for ''recycled content'' claims? If so, why? If not, why not, and what guidance should be provided? What evidence supports your proposed revision(s)?

8. *Recycled Content, 16 CFR 260.13.* The Guides suggest marketers can substantiate ''recycled content'' claims using per-product or annual weighted average calculation methods. Should the Guides be revised to provide guidance on making ''recycled content'' claims based on alternative method(s), *e.g.,* mass balance calculations, certificate (*i.e.,* credit or tagging) systems, or other methods? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision?

9. *Recycled Content, 16 CFR 260.13.* What changes, if any, should the Commission make to its guidance on pre-consumer or post-industrial recycled content claims? How do consumers interpret such claims? Please provide any relevant consumer perception evidence.

10. *Energy Use/Energy Efficiency.* Should the Commission consider adding guidance on energy use or efficiency claims for home-related products, electric vehicles, or other products?

a. What, if any, evidence exists of such deceptive claims in the market?

b. What types of products are typically involved with deceptive claims?

c. If deception exists, what specific guidance should the Commission provide to help marketers avoid deceptive claims? What evidence supports your proposed revision?

11. *Organic.* In 2012, the Commission declined to issue guidance on ''organic'' claims for non-agricultural products. Should the Commission revisit this determination? If so, why, and what guidance should be provided? If not, why not?

a. What evidence supports making your proposed revision(s)?

b. What evidence is available concerning consumer understanding of the term ''organic'' with respect to non-agricultural products?

c. What evidence constitutes a reasonable basis to support an ''organic'' claim in this context?

12. *Sustainable.* In 2012, the Commission determined it lacked a basis to give specific guidance on how consumers interpret ''sustainable'' claims. Should the Commission revisit this determination? If so, why, and what guidance should be provided? If not, why not?

a. What evidence supports making your proposed revision(s)?

b. What evidence is available concerning consumer understanding of the term ''sustainable''?

c. What evidence constitutes a reasonable basis to support a ''sustainable'' claim?

IV. Instructions for Submitting Comments

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before February 21, 2023. Write ''Green Guides Review, Matter No. P954501'' on your comment.

Because of public health measures and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. As a result, we strongly encourage you to submit your comments online through *www.regulations.gov.* To ensure the Commission considers your online comment, please follow the instructions on the web-based form. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *www.regulations.gov* website. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the *regulations.gov* site.

If you file your comment on paper, write ''Green Guides Review, Matter No. P954501'' 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 be placed on the publicly accessible website at *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 be filed in paper form, clearly labeled ''Confidential,'' and comply with FTC Rule § 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and 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 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 21, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

By direction of the Commission.

April J. Tabor,

Secretary.

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

Statement of Chair Lina M. Khan

People decide what to buy, or not to buy, for all kinds of reasons. One of those reasons increasingly seems to be environmental impact. Before making a purchase, many American consumers want to know how a product contributes to climate change, or pollution, or the spread of microplastics. Businesses have noticed. Walk down the aisle at any major store—you're likely to see packages trumpeting their low carbon footprint, their energy efficiency, or their quote-unquote ''sustainability.''

For the average consumer, it's impossible to verify these claims. People who want to buy green products generally have to trust what it says on the box.

That's why it's so important for companies making these claims to tell the truth. If they don't, it distorts the market for environmentally friendly products. It puts honest companies, who bear the costs of green business practices, at a competitive disadvantage. And it harms consumers who want to make conscientious decisions about what products to buy and what businesses to support.

The Commission has a strong track record of suing companies for deceptive environmental claims. It has reached several multi-million-dollar settlements just in the past few years.[1] And, since 1992, the FTC has published the Guides for the Use of Environmental Marketing Claims.[2] The ''Green Guides,'' as we call them, are administrative interpretations of the FTC Act as applied to environmental claims. They help companies avoid running afoul of the law's ban on deceptive advertising. And they clarify the boundaries for fair, legal competition.

To be effective, the Green Guides have to keep up with developments in both science and consumer perception. That's why the Commission is commencing a regulatory review of the guides.

At a broad level, the questions focus on whether any aspects are outdated and in need of revision. For example, recent reports suggest that many plastics that consumers believe they're recycling actually end up in landfills. One question, then, is whether claims that a product is recyclable should reflect where a product ultimately ends up, not just whether it gets picked up from the curb. I'm particularly interested in receiving comments, including consumer perception research, on relatively emerging environmental topics.

I'd like to thank staff for their hard work on this matter, and I encourage members of the public to submit comments to make sure their voice is heard.

[1] *United States* v. *Walmart Inc.,* Case No. 1:22–cv–00965 (D.D.C. Apr. 8, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/2023173WalmartComplaint.pdf; United States* v. *Kohl's Inc.,* Case No. 1:22–cv–00964 (D.D.C. Apr. 8, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/2023171KohlsOrder.pdf; FTC* v. *Truly Organic Inc.,* Case No. 1:19–cv–23832 (S.D. Fla. Sept. 18, 2019), *https://www.ftc.gov/system/files?file=documents/cases/truly_organic_stipulated_final_order_0.pdf.*

[2] The most recent revisions to the Guides occurred in 2012. *See* Guides for the Use of Environmental Marketing Claims, 77 FR 62122 (Oct. 11, 2012).

[FR Doc. 2022–27558 Filed 12–19–22; 8:45 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0161; FRL–10428–01–R6]

Air Plan Approval; Texas; Reasonable Further Progress Plan for the Dallas-Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is supplementing a proposed approval published on October 9, 2020 (''October 2020 proposal''), for revisions to the Texas State Implementation Plan (SIP) to meet the Reasonable Further Progress (RFP) requirements for the Dallas-Fort Worth (DFW) serious nonattainment area for the 2008 ozone National Ambient Air Quality Standard (NAAQS). This proposal supplements the EPA's October 2020 proposal with respect to the substitution of emission reductions of nitrogen oxide (NO_X) for emission reductions of volatile organic compounds (VOC), based on comments received during the public comment period for the October 2020 proposal. In the October 2020 proposal, the EPA proposed to approve the substitution of NO_X emission reductions for VOC emission reductions but did not address how the substitution is consistent with the Clean Air Act (CAA). In this supplemental proposal, EPA is proposing to approve the substitution of NO_X emission reductions for VOC emission reductions as consistent with section 182(c)(2)(C) of the CAA. The EPA is providing an opportunity for public comment on this supplemental proposal. The EPA is not reopening for comment the October 2020 proposal. Comments received on the October 2020 proposal and this supplemental proposal will be addressed in a final rule.

DATES: Written comments on this supplemental proposal must be received on or before January 19, 2023.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0161, at *https://www.regulations.gov* or via email to *paige.carrie@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact Carrie Paige, 214–665–6521, *paige.carrie@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Carrie Paige, EPA Region 6 Office, Infrastructure & Ozone Section, 214–

665–6521, *paige.carrie@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. The EPA Region 6 office encourages the public to submit comments via *https://www.regulations.gov.* Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

I. Background

On May 13, 2020, the Texas Commission on Environmental Quality (TCEQ or State) submitted to EPA a SIP revision addressing RFP requirements for the 2008 8-hour ozone NAAQS for the two serious ozone nonattainment areas in Texas—the DFW and Houston-Galveston-Brazoria (HGB) areas. On October 9, 2020 (85 FR 64084), we published a proposed rule to approve those portions of the May 13, 2020, Texas SIP revision addressing the DFW RFP requirements.[1] In this supplemental proposal, we refer to the May 13, 2020, Texas SIP revision as ''the RFP submittal'' and we refer to our October 9, 2020, proposed action and Technical Support Document (TSD) as ''the October 2020 proposal.''[2]

In our October 2020 proposal, we provided information on ozone formation, the ozone standards, area designations, related SIP revision requirements under the CAA, and the EPA's implementing regulations for the 2008 ozone standards, referred to as the 2008 Ozone SIP Requirements Rule (''2008 Ozone SRR'').[3] The DFW Area, comprising Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise counties was classified as Serious nonattainment for the 2008 ozone standards and as such was subject to the serious area requirements, one of which was to demonstrate reasonable further progress in reducing VOC.[4] In demonstrating RFP, NO_X emission reductions may be substituted for VOC reductions with the appropriate justification.

Comments on our October 2020 proposal were required to be received by November 9, 2020. We received relevant adverse comments on our proposal that included, among other comments, that our proposal did not address how the substitution of NO_X emission reductions for VOC emission reductions in the DFW RFP is consistent with the CAA. Thus, we are addressing the NO_X substitution in this supplemental proposal action. All comments received on our October 2020 proposal and this supplemental proposal will be addressed in the final action.

A. An Overview of Ozone Chemistry and NO_X Substitution Effects

As explained in our October 2020 proposal, ground-level ozone is formed when VOC and NO_X react in the presence of sunlight.[5] However, rather than varying directly with emissions of its precursors, ozone changes in a nonlinear fashion with the concentrations of its precursors. As described in EPA's Health Risk and Exposure Assessment for Ozone,[6] NO_X emissions lead to both the formation and destruction of ozone, depending on the local concentrations of NO_X, VOC, and radicals such as the hydroxyl (OH) and hydroperoxy (HO_2) radicals. In areas dominated by fresh emissions of NO_X, these radicals are removed via the production of nitric acid (HNO_3), which lowers the ozone formation rate. In addition, the depletion of ozone by reaction with NO_X is called ''titration'' and is often found in downtown metropolitan areas, especially near busy streets and roads, and in power plant emission plumes.[7] This ''titration'' results in ozone concentrations that can be much lower than in surrounding areas. Titration is usually confined to areas close to strong NO_X sources, and the NO_2 formed can lead to ozone formation later and further downwind. Consequently, ozone response to reductions in NO_X emissions is complex and may include ozone decreases at some times and locations and increases in ozone at other times and locations. In areas with low NO_X concentrations, such as those found in remote continental areas and rural and suburban areas downwind of urban centers, the net production of ozone typically varies directly with NO_X concentrations and increases with increasing NO_X emissions.

In general, the rate of ozone production is limited by either the concentration of VOC or NO_X. Ozone formation resulting from these two precursors relies on the relative sources of OH and NO_X. When OH radicals are abundant and are not depleted by reaction with NO_X and/or other species, ozone production is referred to as being ''NO_X-limited.''[8] In this situation, ozone concentrations are most effectively reduced by lowering NO_X emissions, rather than lowering emissions of VOCs. When the abundance of OH and other radicals is limited either through low production or reactions with NO_X and other species, ozone production is sometimes called ''VOC-limited'' or ''NO_X-saturated'' and ozone is most effectively reduced by lowering VOCs. However, even in NO_X-saturated conditions, very large decreases in NO_X emissions can cause the ozone formation regime to become NO_X-limited. Consequently, reductions in NO_X emissions (when large), can make further emissions reductions more effective at reducing ozone. Between the NO_X-limited and NO_X-saturated extremes there is a transitional region, where ozone is less sensitive to marginal changes in either NO_X or VOCs. In rural areas and downwind of urban areas, ozone production is generally NO_X-limited. However, across urban areas with high populations, conditions may vary.

CAA section 182(c)(2)(C) requires serious and above ozone nonattainment areas to make reasonable progress in reducing VOC, and also grants the EPA discretion to define the conditions under which NO_X reductions may be substituted for or combined with VOC reductions ''in order to maximize the reduction in ozone air pollution'' and does not further specify the conditions that represent an ''equivalent'' reduction in ozone. For instance, it does not require a specific concentration test at every monitor or at specific locations within an area. No such requirement appears in the CAA's other provisions governing the RFP demonstration, which define specific percentage reductions aimed at ensuring timely attainment of the NAAQS, or in the

[1] We addressed the RFP for the HGB serious ozone nonattainment area in a separate rulemaking. See 86 FR 24717 (May 10, 2021).

[2] The RFP submittal and our October 2020 proposal are provided in the docket for this action.

[3] See 80 FR 12264 (March 6, 2015).

[4] The EPA's recent final determination that the DFW Serious nonattainment area failed to attain the 2008 ozone NAAQS by the area's attainment date is outside the scope of this action. 87 FR 60926 (October 7, 2022).

[5] VOC and NO_X are also referred to as ozone precursors.

[6] EPA, Health Risk and Exposure Assessment (HREA) for Ozone Final Report, August 2014. Available at *https://www.epa.gov/naaqs/ozone-o3-standards-risk-and-exposure-assessments-review-completed-2015.*

[7] Oxides of nitrogen (NO_X) can be in the form of nitric oxide (NO), nitrite (NO_2), etc. Ozone (O_3) is a highly reactive gas that decays to ordinary oxygen (O_2). When O_3 reacts with NO_X, the result oxidizes the NO_X, *i.e.,* the molecule of oxygen (O) moves from the O_3 to the NO_X. For example, $O_3 + NO$ forms $NO_2 + O_2$. This reaction can also move in the opposite direction, to form ozone.

[8] See EPA's Integrated Science Assessment (ISA) for Ozone and Related Photochemical Oxidants, Final Report, February 2013, section 3.2.4, posted at *https://www.epa.gov/naaqs/ozone-o3-standards-integrated-science-assessments-review-completed-2015.*

EPA's 1993 NO_X Substitution Guidance, which describes a recommended procedure for states to utilize NO_X substitution.[9] We interpret CAA section 182(c)(2)(C) and these supporting authorities as properly reflecting Congress's intent to allow NO_X reductions to be considered within an RFP demonstration so long as these reductions are at least as effective as using VOC reductions in reducing ozone.

B. Ozone Chemistry in the DFW Area

The dynamics of ozone formation in the DFW area, including the proportion of VOC to NO_X (''VOC: NO_X ratio''), are described in Appendix D of the DFW Serious Area Attainment Demonstration SIP Revision for the 2008 Ozone NAAQS.[10] Appendix D is the conceptual model for the DFW area, providing details on ozone transport, as well as trends and formation.

The highest levels of ozone typically occur north and northwest of the Dallas urban core, *e.g.,* at the Denton Airport South and Grapevine Fairway monitors — these monitors are often downwind during the ozone season, as surface winds during this time are predominately from the south and southeast.[11] The Grapevine Fairway monitor, northwest of the Dallas urban core, was the ''controlling'' monitor in 2018 and 2020; the Dallas North monitor, north of the Dallas urban core, was the controlling monitor in 2019; and the Pilot Point monitor, north-northwest of the Dallas urban core, was the controlling monitor in 2021.[12] The controlling monitor is the monitor with the highest ozone design value (DV) in the nonattainment area. The DV is the annual fourth highest daily maximum 8-hour average ozone concentration and is the metric to determine compliance with the 2008 ozone NAAQS. Thus, the controlling monitor determines the ozone DV for the nonattainment area.

The DFW area is the fourth largest metropolitan area in the United States with about 7.5 million residents.[13] Ozone precursor emissions (both NO_X and VOC) in the DFW area and particularly the urban core of Dallas and Fort Worth have historically been dominated by mobile source emissions.[14] In recent years however, only the NO_X emissions in the DFW area are dominated by mobile sources and VOC emissions are dominated by area sources.[15] Appendix D mentions that the highest average NO_X concentrations have been measured at the Dallas Hinton Street ozone monitor, located in the Dallas urban core near several busy roadways. Monitors located to the south and southeast of Dallas County, in areas that are relatively rural, have measured the lowest NO_X concentrations. NO_X concentrations in the DFW area have declined since the mid-1980s and NO_X concentrations at the Dallas Hinton Street monitor showed a 50 percent (%) decrease from 2003 through 2013. We believe that NO_X emissions have continued to decrease since 2013, as seen in the more recent and lower emission inventories for the DFW area cited earlier (81 FR 88124 and 87 FR 56891). Appendix D mentions that reductions in NO_X concentrations outside the DFW urban core are not as large as those observed close to its center, which suggests that the measured decreases may be a result of reductions in NO_X emissions from mobile sources. Decreases in VOC concentration have also been measured in the DFW area but are not as dramatic as the decreases in NO_X emissions.

The TCEQ uses analyses in Appendix D to conclude that monitors to the northwest and on the edges of the DFW area are transitional or NO_X-limited, indicating that NO_X controls would be more effective at controlling ozone in these areas. Monitors to the northwest include the Denton Airport South, Grapevine Fairway, Keller, and Eagle Mountain Lake, and monitors on the edges of the DFW area include Pilot Point, Parker County, Granbury, Cleburne Airport, Italy, Corsicana Airport, Kaufman, Rockwall Heath, and Greenville. Of these monitors, only the Grapevine Fairway, Pilot Point, and Cleburne Airport monitors had ozone DVs above 75 ppb from 2018 through 2021.

Of the 20 ozone monitors in the DFW area, 15 have ozone DVs at or below 75 ppb from 2018 through 2021 and thus, are not relevant to the discussion on NO_X substitution since these monitors are not violating the 2008 ozone NAAQS. Four of the five monitors with ozone DVs above 75 ppb (Frisco, Dallas North, Grapevine Fairway, and Pilot Point) are north and northwest (and typically downwind) from the Dallas urban core and thus, consistent with our earlier discussion on ozone chemistry and the TCEQ's analyses in Appendix D, we would expect NO_X controls to be more effective than VOC controls for reducing ozone at these monitors. The fifth monitor with ozone DVs above 75 ppb is the Cleburne Airport monitor, which, as noted earlier, is on the edge of the DFW area and is south-southwest of the DFW urban core. While surface winds during the ozone season are predominately from the south and southeast, it is not unusual for surface winds to flow from the northeast (and thus, flow downwind from the DFW urban core) on days when the Cleburne Airport monitor exceeds the ozone standard.[16] Therefore, consistent with our earlier discussion on ozone chemistry and the TCEQ's analyses in Appendix D, we would expect NO_X controls to be more effective than VOC controls for controlling ozone at this monitor, too.

A new analysis published by EPA authors looks at ozone formation regimes in 2007 and 2016 in ozone nonattainment areas, including the DFW area.[17] Details for DFW are included in the supplemental information of that paper which suggests that: (1) day-of-week analysis points to the DFW area as a whole being NO_X-limited in 2016 but the controlling monitor being ''transitional,'' and (2) photochemical model sensitivity analysis (*i.e.,* model predictions of how ozone will change with emissions perturbations) predicts that in 2016 all locations in the DFW area were NO_X-limited on average across days with ozone levels above 70 ppb (there could be some variability among those days). The controlling monitor in 2016 was the Denton Airport South monitor, northwest of the Dallas

[9] EPA's NO_X Substitution Guidance is posted in the docket for this rulemaking and at *https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2_old/19931201_oaqps_nox_substitution_guidance.pdf.*

[10] Henceforth referred to as ''Appendix D'' and posted in the docket for this action.

[11] A map showing the location of the 20 ozone monitors in the DFW area is posted in the docket for this action.

[12] The TCEQ posts the annual fourth highest daily maximum 8-hour average ozone concentrations. See *https://www.tceq.texas.gov/cgi-bin/compliance/monops/8hr_attainment.pl.*

[13] U.S. Census Bureau, 2020 census data for the 10 counties comprising the DFW area. See *https://www.census.gov/library/visualizations/interactive/2020-population-and-housing-state-data.html.*

[14] For example, see the approved emission inventories at 73 FR 58475 (October 7, 2008).

[15] See the emission inventories approved at 79 FR 67068 (November 12, 2014), 81 FR 88124 (December 7, 2016), and 87 FR 56891 (September 16, 2022).

[16] See the 2014–2016 back trajectory analyses from the Cleburne Airport monitor provided in the Dallas-Fort Worth and Houston-Galveston-Brazoria Nonattainment Areas Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document, Figure 6b on page 18. Figure 6b shows winds predominantly from the northeast on days when the Cleburne Airport monitor exceeded the 2015 ozone NAAQS. This TSD is posted at *https://www.regulations.gov/document/EPA-HQ-OAR-2017-0548-0403.*

[17] Reference: Koplitz, S; Simon, H; Henderson, B; Liljegren, J; Tonnesen, G; Whitehill, A; and Wells, B. Changes in Ozone Chemical Sensitivity in the United States from 2007 to 2016. ACS Environ. Au 2022, 2, 206–222. See also *https://doi.org/10.1021/acsenvironau.1c00029.* This article and the supplemental information are in the docket for this action.

urban core, with an ozone DV of 80 ppb.[18]

An analysis of ozone and NO_X for each day of the week for 1997–2013 is also provided in Appendix D. In the scientific literature, day-of-week analysis has been used to infer ozone chemical regimes.[19] In many urban areas, NO_X concentrations decrease on weekends while VOC concentrations remain fairly constant due to shifts in heavy-duty diesel vehicle patterns throughout the week. All other conditions being equal, if ozone concentrations decrease in parallel with these lower weekend NO_X values that suggests a location has NO_X-limited ozone formation regime. Conversely higher weekend ozone concentrations suggest a VOC-limited ozone formation regime. The analysis presented in Appendix D finds that on Sundays, ozone and NO_X concentrations were significantly lower compared to other days of the week and on Fridays, ozone and NO_X concentrations were higher compared to other days of the week. Appendix D notes that the highest NO_X concentrations (on Fridays) are also when traffic (on-road mobile source activity) is at its peak. Appendix D further presents site-level ozone concentrations by day-of-week and shows that the highest ozone concentrations occur mid-week at both an urban core site (Dallas Hinton Street) and at one of the controlling monitors (Grapevine Fairway) suggesting NO_X-limited conditions in these locations. The analysis in Appendix D reviewed the number of days with ozone concentrations greater than 75 ppb (''high ozone days'') for each day of the week at all monitoring sites in the DFW area and found that fewer high ozone days occur on Sundays compared to other days of the week. Sunday had 85 high ozone days and Monday had the second lowest number of high ozone days—103. High ozone days occur most often on Fridays, with 137 days. While the day-of-week analysis is for years 1997–2013, NO_X reductions in the DFW area since 2013 are expected to result in more NO_X-limited conditions than would have been present during the period of this analysis.

From 2018 through 2021, 15 of the 20 monitors in the DFW area recorded ozone DVs at or below 75 ppb and five monitors had ozone DVs above 75 ppb: Pilot Point, Grapevine Fairway, Dallas North, Frisco, and Cleburne Airport. The TCEQ's analyses in Appendix D indicate that NO_X controls would be more effective at controlling ozone in these monitor locations. The TCEQ's findings here are consistent with our understanding of ozone chemistry and recent analysis of ozone formation regimes described earlier. Therefore, we find the TCEQ's use of NO_X substitution in the DFW area reasonable, especially where the DFW monitors have DVs above 75 ppb from 2018 through 2021.

II. NO_X Substitution in the TX RFP SIP for the DFW Area

As described here and in our October 2020 proposal, the DFW serious nonattainment area for the 2008 ozone NAAQS had an attainment date of July 20, 2021.[20] The attainment year ozone season is the ozone season immediately preceding a nonattainment area's maximum attainment date (see 40 CFR 51.1100(h)). Therefore, pursuant to CAA section 182(c)(2) and 40 CFR 51.1110, the RFP submittal for the DFW serious nonattainment area must demonstrate emissions reductions within the nonattainment area of three percent per year from January 1, 2018, to the end of the attainment year and thus, a nine percent reduction in emissions is required from January 1, 2018, through December 31, 2020. In addition, because the State has already satisfied the 15 percent VOC emissions reduction requirement for the DFW area,[21] all 10 counties in the DFW Serious nonattainment area may substitute NO_X reductions for VOC, consistent with the 2008 Ozone SRR (see 80 FR 12264, 12271), 40 CFR 51.1110, and EPA's NO_X Substitution Guidance.

The RFP submittal for the DFW area provides the required nine percent reductions as eight percent NO_X emissions reductions and one percent VOC emissions reductions. As noted earlier, Appendix D describes the highest levels of NO_X in the urban core and the highest concentrations of ozone recorded at monitors downwind of the urban core, predominantly in the north and northwest portions of the DFW area. Appendix D also describes a transitional regime in the DFW urban core and at the Eagle Mountain Lake monitor however, the monitors in the DFW urban core and the Eagle Mountain Lake monitor have ozone DVs at or below 75 ppb from 2018 through 2021 and thus, are not relevant to the discussion on NO_X substitution. Appendix D also describes, consistent with EPA's discussion on ozone chemistry elsewhere in this action, that monitors to the north, northwest, and on the edges of the DFW area are transitional or NO_X-limited. As mentioned earlier, four of the five monitors that recorded violations of the 2008 ozone NAAQS between 2018 and 2021 are north and northwest of the Dallas urban core: Pilot Point, Grapevine Fairway, Dallas North, and Frisco. The fifth monitor—the Cleburne Airport monitor—is on the south-southwest edge of the DFW area. Finally, the State's review of ozone and NO_X for each day of the week links levels of NO_X with ozone levels, indicating that decreasing levels of NO_X would result in decreasing levels of ozone. Because ambient NO_X and ozone data indicate those areas of DFW with the highest ozone values are NO_X-limited, and because there are no violating monitors in the DFW areas described as VOC-limited, we agree with Texas that reductions in NO_X are at least as effective in reducing ozone as VOC reductions. In addition, based on the EPA's analysis referenced earlier[22] and the TCEQ's day-of-the-week analyses of NO_X concentrations and ozone levels, we would also expect NO_X reductions at the DFW urban core monitors to be at least as effective in reducing ozone as VOC reductions. Therefore, we find that the State's use of NO_X substitution is warranted and appropriately implemented, and we propose to approve the NO_X substitution provided in the RFP submittal for the DFW serious nonattainment area for the 2008 ozone NAAQS.

III. Environmental Justice Considerations

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation,

[18] The ozone DV at the Denton Airport South monitor was at or below 75 ppb from 2018 through 2021.

[19] Please see the list of references provided in the docket for this action.

[20] See 84 FR 44238, (August 23, 2019). The EPA's final determination that the DFW area did not meet the July 20, 2021, attainment date for the 2008 ozone NAAQS is outside the scope of this action (*see* 87 FR 60926).

[21] See 81 FR 88124 (December 7, 2016).

[22] Koplitz, S; Simon, H; Henderson, B; Liljegren, J; Tonnesen, G; Whitehill, A; and Wells, B. Changes in Ozone Chemical Sensitivity in the United States from 2007 to 2016. ACS Environ. Au 2022, 2, 206–222. *This article and the supplemental information are in the docket for this action.*

and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''[23] For this proposed action, the EPA conducted screening analyses using the EJScreen (Version 2.1) tool. We conducted the analyses for the purpose of providing information to the public, not as a basis of our proposed action. The EJScreen analysis reports are available in the docket for this rulemaking. The EPA found, based on the EJScreen analyses, that this proposed action will not have disproportionately high or adverse human health or environmental effects on communities with EJ concerns, as the RFP is an accounting of ozone precursor emission reductions throughout the 10-county DFW nonattainment area.

IV. Supplemental Proposed Action

The EPA is supplementing our October 2020 proposal addressing revisions to the Texas SIP to meet the RFP requirements for the DFW serious nonattainment area for the 2008 ozone NAAQS. In this supplemental proposal, we are proposing to approve the substitution of NO_X emission reductions for VOC emission reductions as consistent with section 182(c)(2)(C) of the CAA. The EPA is providing an opportunity for public comment on this supplemental proposal. However, we are not reopening for comment our October 2020 proposal. The EPA will address all comments received on our October 2020 proposal and on this supplemental proposal in our final action.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: December 15, 2022.

Earthea Nance,

Regional Administrator, Region 6.

[FR Doc. 2022–27603 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

[23] See *https://www.epa.gov/environmentaljustice/learn-about-environmental-justice.*

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0681; FRL–10386–01–R9]

Approval of Air Quality Implementation Plans; Vehicle Miles Traveled Emissions Offset Demonstrations for the 2015 Ozone Standards; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the California state implementation plan (SIP) concerning vehicle miles traveled (VMT) offset demonstrations for the Los Angeles—South Coast Air Basin (South Coast), Riverside County (Coachella Valley), Los Angeles—San Bernardino Counties (West Mojave Desert), and San Joaquin Valley nonattainment areas (NAAs) for the 2015 ozone national ambient air quality standards (NAAQS). The EPA is proposing to approve these revisions because they demonstrate that California has added or implemented specific enforceable transportation control strategies and transportation control measures to offset the growth in emissions from growth in VMT and vehicle trips. We are proposing to approve these revisions under the Clean Air Act (CAA or ''the Act''), which establishes VMT offset demonstration requirements for ozone nonattainment areas classified as ''Severe'' or ''Extreme.''

DATES: Written comments must arrive on or before January 19, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0681 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary

submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ben Leers, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4279 or *Leers.Ben@epa.gov.*

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

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I. Background
II. Summary and Analysis of the State's Submittals
III. Proposed Action
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I. Background

On October 26, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm).[1] In accordance with section 107(d) of the CAA, the EPA must designate an area ''nonattainment'' if it is violating the NAAQS or if it is contributing to a violation of the NAAQS in a nearby area.

On June 4, 2018, the EPA designated 21 areas in California as nonattainment for the 2015 ozone NAAQS. The designations became effective on August 3, 2018.[2] In its June 4, 2018 action, the EPA also classified the 21 nonattainment areas in California, including the South Coast and San Joaquin Valley NAAs as Extreme nonattainment and the Coachella Valley and West Mojave Desert NAAs as Severe nonattainment.

Within two years of designations, section 182(d)(1)(A) of the CAA and 40 CFR 51.1302 require a state with an ozone NAA classified as Severe or Extreme for the 2015 ozone NAAQS to submit a revision to the SIP that addresses the VMT offset demonstration requirement in the Act.[3]

On July 27, 2020, the California Air Resources Board (CARB) submitted a staff report titled ''70 ppb Ozone SIP Submittal'' (''July 2020 submittal'') to the EPA.[4] In part, the July 2020 submittal contains the VMT offset demonstrations for the South Coast, Coachella Valley, and San Joaquin Valley NAAs.[5] On December 28, 2020, CARB submitted to the EPA a staff report titled ''West Mojave Desert VMT Offset Demonstration'' (''December 2020 submittal'') for the West Mojave Desert NAA.[6] In this action, we are evaluating and proposing action on portions of the July 2020 submittal that address the South Coast, Coachella Valley, and San Joaquin Valley VMT offset demonstrations and the December 2020 submittal of the West Mojave Desert VMT offset demonstration.

In California, CARB is the agency responsible for the adoption and submission to the EPA of California SIPs and SIP revisions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of regional air quality plans. The South Coast Air Quality Management District develops and adopts air quality management plans to address CAA planning requirements applicable in the South Coast and Coachella Valley NAAs. The San Joaquin Valley Air Pollution Control District develops and adopts air quality management plans to address CAA planning requirements applicable in the San Joaquin Valley NAA. The Antelope Valley Air Quality Management District and the Mojave Desert Air Quality Management District collectively develop and adopt air quality management plans to address CAA planning requirements applicable in the West Mojave Desert. Such plans are then submitted to CARB for adoption and submittal to the EPA as revisions to the California SIP.

A. The South Coast Ozone Nonattainment Area

The South Coast nonattainment area consists of Orange County, the southwestern two-thirds of Los Angeles County, a portion of southwestern San Bernardino County, and western Riverside County. The South Coast nonattainment area encompasses an area of approximately 6,600 square miles and is bounded by the Pacific Ocean to the west and the San Gabriel, San Bernardino, and San Jacinto mountains to the north and east.[7] The projected 2018 and 2030 populations of the South Coast NAA are over 16 million and 18 million people, respectively.[8]

B. The Coachella Valley 8-Hour Ozone Nonattainment Area

The Coachella Valley NAA is located within Riverside County, and its boundaries generally align with the Riverside County portion of the Salton Sea Air Basin.[9] The projected 2018 and 2030 populations of the Coachella Valley NAA are 471,012 and 568,622, respectively.[10]

C. The San Joaquin Valley Ozone Nonattainment Area

The San Joaquin Valley NAA consists of San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, and Kings counties, and the western portion of Kern County. The San Joaquin Valley NAA stretches over 250 miles from north to south, averages a width of 80 miles, and encompasses over 23,000 square miles. It is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east.[11] The population of the San Joaquin Valley in 2015 was estimated to be nearly 4.2 million people, and it is

[1] 80 FR 65292 (October 26, 2015).

[2] 83 FR 25776 (June 4, 2018).

[3] CAA section 182(d)(1)(A) includes three separate elements. In short, under section 182(d)(1)(A), states are required to adopt transportation control strategies and measures to offset growth in emissions from growth in VMT, and, as necessary, in combination with other emissions reduction requirements, to demonstrate reasonable further progress and attainment. For more information on the EPA's interpretation of the three elements of section 182(d)(1)(A), see 77 FR 58067, 58068 (September 19, 2012) (proposed withdrawal of approval of South Coast VMT emissions offset demonstrations). In this action, we are only addressing the first element of CAA section 182(d)(1)(A), *i.e.,* the VMT emissions offset requirement.

[4] Letter dated July 24, 2020, from Richard W. Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX (submitted electronically July 27, 2020).

[5] The July 2020 submittal also addresses base year emissions inventory requirements for 18 of the 21 NAAs in California. The EPA approved the July 2020 submittal as meeting the base year emissions inventory requirements for the 18 areas addressed in the submittal on September 29, 2022 (87 FR 59015).

[6] Letter dated December 28, 2020, from Richard W. Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX (submitted electronically December 29, 2020).

[7] For a precise definition of the boundaries of the South Coast 2015 ozone nonattainment area, see 40 CFR 81.305.

[8] South Coast Air Quality Management District, ''2022 Draft Air Quality Management Plan,'' Chapter 7, 7–2.

[9] For a precise definition of the boundaries of the Coachella Valley 2015 ozone nonattainment area, see 40 CFR 81.305.

[10] 2022 Draft Air Quality Management Plan, Chapter 7, 7–2.

[11] For a precise definition of the boundaries of the San Joaquin Valley 2015 ozone nonattainment area, see 40 CFR 81.305.

projected to increase to over 5.2 million people in 2030.[12]

D. The West Mojave Desert Ozone Nonattainment Area

The West Mojave Desert NAA consists of northeast Los Angeles County and portions of southwest and central San Bernardino County.[13] The population of the West Mojave Desert NAA was estimated at 868,380 in 2010.[14]

II. Summary and Analysis of the State's Submittals

A. Statutory and Regulatory Requirements

CAA sections 110(a)(1) and 110(l) and 40 CFR 51.102 require states to provide reasonable notice and an opportunity for a public hearing prior to adoption of SIP revisions. Section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. Any plan that the EPA does not affirmatively determine to be complete or incomplete will become complete six months after the day of submittal by operation of law. A finding of completeness does not approve the submittal as part of the SIP, nor does it indicate that the submittal is approvable. It does start a 12-month clock for the EPA to act on the SIP submittal.[15]

B. Summary of the State's Submittals

The July 2020 submittal documents the public review process followed prior to submittal to the EPA of the South Coast, Coachella Valley, and San Joaquin Valley VMT offset demonstrations as revisions to the SIP. In addition to the VMT offset demonstrations, the July 2020 submittal includes a copy of CARB's notice for a public meeting on June 25, 2020,[16] a transcript from the June 25, 2020 meeting,[17] a signed resolution stating that CARB provided at least 30 days for public review prior to the board hearing and that the VMT offset demonstrations were adopted after adequate notice and public hearing,[18] and a compilation of comments received by CARB prior to and during the June 25, 2020 public meeting.[19]

The December 2020 submittal documents the public review process followed prior to the submittal to the EPA of the West Mojave Desert VMT offset demonstration as a revision to the SIP. In addition to the West Mojave Desert VMT offset demonstration, the December 2020 submittal includes a copy of CARB's notice for a public meeting on October 22, 2020,[20] a signed resolution stating that CARB provided at least 30 days for public review prior to the board hearing and the West Mojave Desert VMT offset demonstration was adopted after adequate notice and public hearing,[21] and a comment received by CARB prior to the October 22, 2020 public meeting.[22]

1. Stationary and Regulatory Requirements

Section 182(d)(1)(A) of the Act requires a state to submit, for each ozone nonattainment area classified as Severe or above, a SIP revision that ''identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or number of vehicle trips in such area.'' Herein, we refer to the related SIP requirement as the ''VMT emissions offset requirement.'' In addition, we refer to the SIP revision intended to demonstrate compliance with the VMT emissions offset requirement as the ''VMT emissions offset demonstration.''

In *Association of Irritated Residents* v. *EPA,* the Ninth Circuit ruled that additional transportation control measures are required whenever vehicle emissions are projected to be higher than they would have been had VMT not increased, even when aggregate vehicle emissions are actually decreasing.[23] In response to the court's decision, in August 2012, the EPA issued a memorandum titled ''Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled'' (''August 2012 Guidance'').[24]

The August 2012 Guidance discusses the meaning of ''transportation control strategies'' (TCS) and ''transportation control measures'' (TCM) and recommends that both TCSs and TCMs be included in the calculations made for the purpose of determining the degree to which any hypothetical growth in emissions due to growth in VMT should be offset. Generally, TCS is a broad term that encompasses many types of controls (including, for example, motor vehicle emissions limitations, inspection and maintenance (I/M) programs, alternative fuel programs, other technology-based measures, and TCMs) that would fit within the regulatory definition of ''control strategy.''[25] A TCM is defined at 40 CFR 51.100(r) as ''any measure that is directed toward reducing emissions of air pollutants from transportation sources,'' including, but not limited to, those listed in section 108(f) of the CAA. TCMs generally refer to programs intended to reduce VMT, number of vehicle trips, or traffic congestion, such as programs for improved public transit, designation of certain lanes for passenger buses and high-occupancy vehicles, and trip reduction ordinances.

The August 2012 Guidance explains how states may demonstrate that the VMT emissions offset requirement is satisfied in conformance with the Court's ruling in *Association of Irritated Residents.* Under the August 2012 Guidance, states are recommended to develop one emissions inventory for the base year and three different emissions inventory scenarios for the attainment year. For the attainment year, the state would present three emissions estimates, two of which would represent

[12] The population estimates and projections include all of Kern County, not just the portion of Kern County within the jurisdiction of the SJVAPCD. See San Joaquin Valley Air Pollution Control District, ''2016 Ozone Plan for 2008 8-Hour Ozone Standard,'' Adopted June 16, 2016, Chapter 1, Table 1–1.

[13] For a precise definition of the boundaries of the West Mojave Desert 2015 ozone nonattainment area, see 40 CFR 81.305.

[14] 8-Hour Ozone (2008) Designated Area/State Information, Green Book, EPA, accessed on November 19, 2020, Population Data from 2010, *https://www3.epa.gov/airquality/greenbook/hbtc.html.*

[15] See CAA section 110(k)(2).

[16] ''Notice of Public Meeting to Consider 70 Parts Per Billion Ozone State Implementation Plan Submittal,'' California Air Resources Board, May 22, 2020.

[17] ''Videoconference Meeting, State of California, Air Resources Board, CALEPA Headquarters, Byron Sher Auditorium, Second Floor, 1001 I Street, Sacramento, California,'' J&K Court Reporting, LLC, June 25, 2020.

[18] ''70 Parts Per Billion Ozone State Implementation Plan Submittal,'' Resolution 20–17, CARB, June 25, 2020.

[19] Compilation of comments received for 70 Parts Per Billion Ozone State Implementation Plan Submittal. CARB indicated in its July 24, 2020 transmittal letter to the EPA that CARB has considered all comments and has determined all are non-substantive and do not pertain to the action.

[20] ''Notice of Public Meeting to Consider the West Mojave Desert VMT Offset Demonstration,'' California Air Resources Board, September 18, 2020.

[21] ''West Mojave Desert Vehicle Miles Traveled Offset Demonstration,'' Resolution 20–27, California Air Resources Board, October 22, 2020.

[22] CARB determined the comment to be non-substantive and did not pertain to the Board's action on the item. No comments were received during the Board meeting.

[23] See *Association of Irritated Residents* v. *EPA,* 632 F.3d. 584, at 596–597 (9th Cir. 2011), reprinted as amended on January 27, 2012, 686 F.3d 668, further amended February 13, 2012 (''*Association of Irritated Residents*'').

[24] Memorandum dated August 30, 2012, Karl Simon, Director, Transportation and Climate Division, Office of Transportation and Air Quality, to Carl Edland, Director, Multimedia Planning and Permitting Division, EPA Region 6, and Deborah Jordan, Director, Air Division, EPA Region 9.

[25] See, *e.g.,* 40 CFR 51.100(n).

hypothetical emissions scenarios that would provide the basis to identify the ''growth in emissions'' due solely to the growth in VMT, and one that would represent projected actual motor vehicle emissions after fully accounting for projected VMT growth and offsetting emissions reductions obtained by all creditable TCSs and TCMs. See the August 2012 Guidance for specific details on how states might conduct the calculations.

The base year on-road volatile organic compound (VOC) emissions should be calculated using VMT in that year, and they should reflect all enforceable TCSs and TCMs in place in the base year. This would include vehicle emissions standards, state and local control programs, such as I/M programs or fuel rules, and any additional implemented TCSs and TCMs that were already required by or credited in the SIP as of that base year.

The first of the emissions calculations for the attainment year is based on the projected VMT and trips for that year and assume that no new TCSs or TCMs beyond those already credited in the base year inventory have been added or implemented since the base year. This calculation demonstrates how emissions would hypothetically change if no new TCSs or TCMs were added or implemented, and VMT and trips were allowed to grow at the projected rate from the base year. This estimate shows the potential for an increase in emissions due solely to growth in VMT and trips, representing a ''no action'' scenario. Attainment year emissions in this scenario may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced through fleet turnover; however, provided that VMT and/or numbers of vehicle trips would in fact increase by the attainment year, emissions would still likely be higher than they would have been assuming VMT had held constant.

The second of the attainment year's emissions calculations assumes that no new TCSs or TCMs beyond those already credited have been added or implemented since the base year, but it also assumes no growth in VMT and trips between the base year and attainment year. This estimate reflects the hypothetical emissions level that would have occurred if no further TCMs or TCSs had been added or implemented and if VMT and trip levels had held constant since the base year. Like the ''no action'' attainment year estimate described above, emissions in the attainment year may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced by cleaner vehicles through fleet turnover, but in this case, they would not be influenced by any growth in VMT or trips. This emissions estimate reflects a ceiling on the attainment emissions that should be allowed to occur under the statute as interpreted by the court in *Association of Irritated Residents* because it shows what would happen under a scenario in which no offsetting TCSs or TCMs have yet been added or implemented, and VMT and trips are held constant during the period from the area's base year to its attainment year. This represents a ''VMT offset ceiling'' scenario. These two hypothetical status quo estimates are necessary to identify the target level of emissions from which states would determine whether further TCMs or TCSs, beyond those that have been adopted and implemented in reality, would need to be adopted and implemented in order to fully offset any increase in emissions due solely to VMT and trips identified in the ''no action'' scenario.

Finally, the third attainment year emissions estimate represents the emissions that are actually expected to occur in the area's attainment year after taking into account reductions from all enforceable TCSs and TCMs. This estimate is based on the VMT and trip levels expected to occur in the attainment year (*i.e.,* the VMT and trip levels from the first estimate) and all of the TCSs and TCMs expected to be in place and for which the SIP will take credit in the area's attainment year, including any TCMs and TCSs added or implemented since the base year. This represents the ''projected actual'' attainment year scenario. If this emissions estimate is less than or equal to the emissions ceiling that was established in the second of the attainment year calculations, the TCSs and TCMs for the attainment year would be sufficient to fully offset the identified hypothetical growth in emissions.

If, instead, the estimated projected actual attainment year emissions are still greater than the ceiling that was established in the second of the attainment year emissions calculations, even after accounting for post-baseline year TCSs and TCMs, the state would need to adopt and implement additional TCSs or TCMs to further offset the growth in emissions. The additional TCSs or TCMs would need to bring the actual emissions down to at least the VMT offset ceiling estimated in the second of the attainment year calculations, to meet the VMT offset requirement of section 182(d)(1)(A) as interpreted by the Court.

2. Summary of State's Submission

CARB prepared the VMT emissions offset demonstrations for the South Coast, Coachella Valley, San Joaquin Valley, and West Mojave Desert for the 2015 ozone NAAQS, and they are documented in the July 2020 and December 2020 submittals. In addition to the VMT emissions offset demonstrations, the submittals include attachments listing TCSs adopted by CARB since 1990,[26] TCMs developed by the Southern California Association of Governments (SCAG),[27] the metropolitan planning organization (MPO) for the South Coast, Coachella Valley, and West Mojave Desert NAAs,[28] and TCMs developed by the eight MPOs [29] in the San Joaquin Valley NAA.[30]

For the VMT emissions offset demonstrations, CARB used EMFAC2017, the latest EPA-approved motor vehicle emissions model for California available at the time the four VMT offset demonstrations were developed.[31] The EMFAC2017 model estimates the on-road emissions from two combustion processes (*i.e.,* running exhaust and start exhaust) and four evaporative processes (*i.e.,* hot soak, running losses, diurnal losses, and resting losses). The EMFAC2017 model combines trip-based VMT data from the regional transportation planning agency (*e.g.,* SCAG), vehicle start data based on household travel surveys, and vehicle population data from the California Department of Motor Vehicles. These sets of data are combined with corresponding emissions rates to calculate emissions.

Emissions from running exhaust, start exhaust, hot soak, and running losses are a function of how much a vehicle is

[26] See attachments B–1 in the July 2020 submittal and A–1 in the December 2020 submittal.

[27] SCAG is the metropolitan planning organization for the South Coast NAA and surrounding areas. The SCAG region also includes the West Mojave Desert NAA and encompasses six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura) and 191 cities in an area covering more than 38,000 square miles.

[28] See attachments B–2 in the July 2020 submittal and A–2 in the December 2020 submittal.

[29] The following eight MPOs represent the eight counties in the San Joaquin Valley nonattainment area: The San Joaquin Council of Governments, the Stanislaus Council of Governments, the Merced County Association of Governments, the Madera County Transportation Commission, The Council of Fresno County Governments, The Kings County Association of Governments, the Tulare County Association of Governments, and the Kern Council of Governments.

[30] See attachment B–2 in the July 2020 submittal.

[31] On August 15, 2019, the EPA approved and announced the availability of EMFAC2017, the latest update to the EMFAC model for use by State and local governments to meet CAA requirements. See 84 FR 41717 (August 15, 2019).

driven. Emissions from these processes are thus directly related to VMT and vehicle trips, and CARB included these emissions in the calculations that provide the basis for four VMT emissions offset demonstrations addressed in this proposed action. CARB did not include emissions from resting loss and diurnal loss processes in the analysis because such emissions are related to vehicle population, not to VMT or vehicle trips, and thus are not part of ''any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area'' under CAA section 182(d)(1)(A).

The VMT emissions offset demonstrations in the July 2020 and December 2020 submittals use a 2017 base year. The base year for VMT emissions offset demonstration purposes should generally be the same base year used for nonattainment planning purposes. On September 29, 2022, the EPA approved the 2017 base year inventories for 18 ozone NAAs in California, including South Coast, Coachella Valley, San Joaquin Valley, and West Mojave Desert, for the purposes of the 2015 ozone NAAQS, and thus, CARB's selection of 2017 is appropriate as the base year for the VMT emissions offset demonstrations for the 2015 ozone NAAQS in the July 2020 and December 2020 submittals.[32]

The VMT emissions offset demonstrations also include the three different attainment year scenarios (*i.e.,* no action, VMT offset ceiling, and projected actual) described in section II.B.1 of this notice. On July 5, 2022, CARB provided additional technical information in support of the attainment year inventories used to derive the three different attainment year scenarios in the VMT offset demonstrations.[33] On August 16, 2020, CARB provided additional technical clarification regarding vehicle populations, VMT, and vehicle starts (*i.e.,* trips) in the attainment scenarios. Because mileage accrual rates vary between gasoline and electric vehicles, the vehicle populations and starts vary among the attainment year scenarios. VMT accrual for gasoline vehicles is slightly higher than electric vehicles before model year (MY) 2025; because CARB anticipates that battery range will increase over time, CARB assumes that VMT accrual per year for electric vehicles will equal that of gasoline vehicles in MY 2025 and later. Further, other factors such as spatial allocation and fuel matching characteristics of the EMFAC model influence the vehicle population estimates. Therefore, different populations of gasoline and electric vehicles (and, consequently, different total populations and numbers of starts) may correspond to the same VMT.[34]

The EPA has reviewed the supporting technical information used to calculate the 2032 attainment year scenarios for Coachella Valley and West Mojave Desert Severe nonattainment areas and the 2037 attainment year scenarios for South Coast and San Joaquin Valley Extreme nonattainment areas. We reviewed the VMT, vehicle population, and vehicle trip data input to EMFAC2017 and compared modeled emissions reductions to the reductions expected from measures implemented after the base year. Based on our review, we propose to find the information to be adequate for use in the VMT offset demonstrations. We propose to find acceptable CARB's selection of year 2032 as the attainment year for the Coachella Valley and West Mojave Desert VMT emissions offset demonstrations and 2037 as the attainment year for the South Coast and San Joaquin Valley VMT emissions offset demonstrations for the 2015 ozone NAAQS.

(a) South Coast

Table 1 summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates in tons per day (tpd) for the South Coast VMT offset demonstration for the 2015 ozone NAAQS.

TABLE 1—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR SOUTH COAST FOR THE 2015 OZONE NAAQS

Scenario	VMT (1,000/day)	Starts (1,000/day)	VOC emissions (tpd)
Base Year (2017)	395,571	48,172	75
No Action (2037); no new measures, with VMT growth	407,368	61,173	40
VMT Offset Ceiling (2037); no new measures, no VMT growth	395,571	59,997	36
Projected Actual (2037); new measures included, with VMT growth	407,368	59,869	29

Source: July 2020 submittal, Tables 1 and 2, p. 25–26. Starts data provided in attachment (''South Coast VMT Offset—2019 FSTIP—February 27 2020_USEPA.xlsx'') in email dated July 5, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

For the base year scenario, CARB ran the EMFAC2017 model for the 2017 base year using VMT and starts data corresponding to that year. As shown in Table 1, CARB estimates the South Coast VOC emissions at 75 tpd in 2017.

For the no action scenario, CARB first identified the on-road motor vehicle control programs (*i.e.,* TCSs or TCMs) added or implemented since the base year and incorporated into EMFAC2017. CARB then ran EMFAC2017 with the VMT and starts data corresponding to the 2037 attainment year without the emissions reductions from the on-road motor vehicle control programs added or implemented after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions in the attainment year if CARB had not added or implemented any additional TCSs or TCMs after 2017. As shown in Table 1, CARB estimates the no action South Coast VOC emissions at 40 tpd in 2037.

For the VMT offset ceiling scenario, CARB ran the EMFAC2017 model for the 2037 attainment year but with VMT and starts data corresponding to the 2017 base year. Like the no action scenario, the EMFAC2017 model was adjusted to reflect the VOC emissions levels in the attainment year without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in the South Coast if CARB had not added or implemented any TCSs or TCMs after the base year and if there had been no

[32] 87 FR 59015.

[33] CARB further clarified the additional technical information in supplementary emails dated August 11 and 16, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX) regarding VMT offset demonstrations.

[34] See email dated August 16, 2022, from Nesamani Kalandiyur (CARB) and Karina O'Connor (EPA Region IX) to John Ungvarsky (EPA Region IX) regarding VMT offset demonstrations.

growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the no action and VMT offset ceiling scenarios. Based on the values in Table 1, the hypothetical growth in emissions due to growth in VMT and trips in the South Coast would have been 4 tpd (*i.e.,* 40 tpd minus 36 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCSs and TCMs and any necessary additional TCSs and TCMs.

For the projected actual scenario calculation, CARB ran the EMFAC2017 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs and TCMs added or implemented since the base year. Significant VOC emissions reductions during the 2017–2037 timeframe result from the zero emission vehicle provisions of the Advanced Clean Cars program.[35]

As shown in Table 1, the projected actual attainment year VOC emissions are 29 tpd. CARB compared this value against the corresponding VMT offset ceiling value to determine whether additional TCSs or TCMs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions do not exceed the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that the adopted TCSs and TCMs are sufficient to offset the growth in emissions from the growth in VMT and vehicle trips in the South Coast for the 2015 ozone NAAQS.

(b) Coachella Valley

Table 2 summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates for the Coachella Valley VMT offset demonstration for the 2015 ozone NAAQS.

TABLE 2—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR THE COACHELLA VALLEY NAA FOR THE 2015 OZONE NAAQS

Scenario	VMT (1,000/day)	Starts (1,000/day)	VOC emissions (tpd)
Base Year (2017)	13,479	1,751	3.1
No Action (2032); no new measures, with VMT growth	16,284	2,395	2.0
VMT Offset Ceiling (2032); no new measures, no VMT growth	13,479	2,023	1.6
Projected Actual (2032); new measures included, with VMT growth	16,284	2,350	1.6

Source: July 2020 submittal, Tables 3 and 4, p. 28–29. Starts data provided in attachment ("Coachella VMT Offset—2019 FSTIP—April 2 2020_USEPA.xlsx") in email dated August 11, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

For the base year scenario, CARB ran the EMFAC2017 model for the 2017 base year using VMT and starts data corresponding to that year. As shown in Table 2, CARB estimates the Coachella Valley VOC emissions at 3.1 tpd in 2017.

For the no action scenario, CARB first identified the on-road motor vehicle control programs (*i.e.,* TCSs or TCMs) added or implemented since the base year and incorporated into EMFAC2017. CARB then ran EMFAC2017 with the VMT and starts data corresponding to the 2032 attainment year without the emissions reductions from the on-road motor vehicle control programs added or implemented after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions in the attainment year if CARB had not added or implemented any additional TCSs or TCMs after 2017. As shown in Table 2, CARB estimates the no action Coachella Valley VOC emissions at 2.0 tpd in 2032.

For the VMT offset ceiling scenario, CARB ran the EMFAC2017 model for the 2032 attainment year but with VMT and starts data corresponding to the 2017 base year. Like the no action scenario, the EMFAC2017 model was adjusted to reflect the VOC emissions levels in the attainment year without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in the Coachella Valley if CARB had not added or implemented any TCSs or TCMs after the base year and if there had been no growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the no action and VMT offset ceiling scenarios. Based on the values in Table 2, the hypothetical growth in emissions due to growth in VMT and trips in the Coachella Valley would have been 0.4 tpd (*i.e.,* 2.0 tpd minus 1.6 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCSs and TCMs and any necessary additional TCSs and TCMs.

For the projected actual scenario calculation, CARB ran the EMFAC2017 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs and TCMs added or implemented since the base year. Significant VOC emissions reductions during the 2017–2037 timeframe result from the zero emission vehicle provisions of the Advanced Clean Cars program.[36]

As shown in Table 2, the projected actual attainment year VOC emissions are 1.6 tpd. CARB compared this value against the corresponding VMT offset ceiling value to determine whether additional TCSs or TCMs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions do not exceed the corresponding VMT offset

[35] Attachment B–1 to the July 2022 submittal includes a list of the state's TCSs adopted by CARB since 1990. Also see EPA final action on CARB mobile source SIP submittals at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018). Also see email dated August 16, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

[36] Attachment B–1 to the July 2022 submittal includes a list of the state's TCSs adopted by CARB since 1990. Also see EPA final action on CARB mobile source SIP submittals at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018). Also see email dated August 16, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that the adopted TCSs and TCMs are sufficient to offset the growth in emissions from the growth in VMT and vehicle trips in the Coachella Valley for the 2015 ozone NAAQS.

(c) San Joaquin Valley

Table 3 summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates for the San Joaquin Valley VMT offset demonstration for the 2015 ozone NAAQS.

TABLE 3—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR THE SAN JOAQUIN VALLEY NAA FOR THE 2015 OZONE NAAQS

Scenario	VMT (1,000/day)	Starts (1,000/day)	VOC Emissions (tpd)
Base Year (2017)	101,828	13,223	26.6
No Action (2037); no new measures, with VMT growth	128,611	18,534	13.4
VMT Offset Ceiling (2037); no new measures, no VMT growth	101,828	14,685	10.2
Projected Actual (2037); new measures included, with VMT growth	128,611	18,171	10.0

Source: "SJV Total—8 GAIs—VMT Offset ROG Emissions—April 7 2020_USEPA (updated 081222).xlsx," included in email dated August 15, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX). Note that the San Joaquin Valley VMT offset demo in the July 2022 submittal erroneously reported VMT and emissions data for San Joaquin County rather than the entire San Joaquin Valley nonattainment area. CARB provided VMT, starts, and emissions data for the San Joaquin Valley nonattainment area in CARB's August 15, 2022 supplemental email to EPA Region IX.

For the base year scenario, CARB ran the EMFAC2017 model for the 2017 base year using VMT and starts data corresponding to that year. As shown in Table 3, CARB estimates the San Joaquin Valley VOC emissions at 26.6 tpd in 2017.

For the no action scenario, CARB first identified the on-road motor vehicle control programs added or implemented since the base year and incorporated into EMFAC2017. CARB then ran EMFAC2017 with the VMT and starts data corresponding to the 2037 attainment year without the emissions reductions from the on-road motor vehicle control programs added or implemented after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions in the attainment year if CARB had not added or implemented any additional TCSs and TCMs after 2017. As shown in Table 3, CARB estimates the no action San Joaquin Valley VOC emissions at 13.4 tpd in 2037.

For the VMT offset ceiling scenario, CARB ran the EMFAC2017 model for the 2037 attainment year but with VMT and starts data corresponding to the 2017 base year. Like the no action scenario, the EMFAC2017 model was adjusted to reflect the VOC emissions levels in the attainment year without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in the San Joaquin Valley if CARB had not added or implemented any TCSs and TCMs after the base year and if there had been no growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the no action and VMT offset ceiling scenarios. Based on the values in Table 3, the hypothetical growth in emissions due to growth in VMT and trips in the San Joaquin Valley would have been 3.2 tpd (*i.e.,* 13.4 tpd minus 10.2 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCSs and TCMs and any necessary additional TCSs and TCMs.

For the projected actual scenario calculation, CARB ran the EMFAC2017 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs and TCMs added or implemented since the base year. Significant VOC emissions reductions during the 2017–2037 timeframe result from the zero emission vehicle provisions of the Advanced Clean Cars program.[37]

As shown in Table 3, the projected actual attainment year VOC emissions are 10.0 tpd. CARB compared this value against the corresponding VMT offset ceiling value to determine whether additional TCSs or TCMs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions do not exceed the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that the adopted TCSs and TCMs are sufficient to offset the growth in emissions from the growth in VMT and vehicle trips in the San Joaquin Valley for the 2015 ozone NAAQS.

(d) West Mojave Desert

Table 4 summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates for the West Mojave Desert VMT offset demonstration for the 2015 ozone NAAQS.

[37] Attachment A–1 to the December 2022 submittal includes a list of the state's TCSs adopted by CARB since 1990. Also see EPA final action on CARB mobile source SIP submittals at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018), and email dated August 16, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

TABLE 4—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR WEST MOJAVE DESERT NAA FOR THE 2015 OZONE NAAQS

Scenario	VMT (1,000/day)	Starts (1,000/day)	VOC Emissions (tpd)
Base Year (2017)	31,687	3,871	7.7
No Action (2032); no new measures, with VMT growth	38,740	5,076	4.4
VMT Offset Ceiling (2032); no new measures, no VMT growth	31,687	4,286	4.0
Projected Actual (2032); new measures included, with VMT growth	38,740	4,975	3.8

Source: December 2020 submittal, Tables 1 and 2, p. 6–7. Starts data provided in attachment ("Western Mojave VMT Offset—July 2020 Activity—July 24 2020_USEPA.xlsx") in email dated July 5, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

For the base year scenario, CARB ran the EMFAC2017 model for the 2017 base year using VMT and starts data corresponding to that year. As shown in Table 4, CARB estimates the West Mojave Desert VOC emissions at 7.7 tpd in 2017.

For the no action scenario, CARB first identified the on-road motor vehicle control programs (*i.e.,* TCSs and TCMs added or implemented since the base year and incorporated into EMFAC2017. CARB then ran EMFAC2017 with the VMT and starts data corresponding to the 2032 attainment year without the emissions reductions from the on-road motor vehicle control programs added or implemented after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions in the attainment year if CARB had not added or implemented any additional TCSs or TCMs after 2017. As shown in Table 4, CARB estimates the no action West Mojave Desert VOC emissions at 4.4 tpd in 2032.

For the VMT offset ceiling scenario, CARB ran the EMFAC2017 model for the 2032 attainment year but with VMT and starts data corresponding to the 2017 base year. Like the no action scenario, the EMFAC2017 model was adjusted to reflect the VOC emissions levels in the attainment year without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in the West Mojave Desert if CARB had not added or implemented any TCSs or TCMs after the base year and if there had been no growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the no action and VMT offset ceiling scenarios. Based on the values in Table 4, the hypothetical growth in emissions due to growth in VMT and trips in the West Mojave Desert would have been 0.4 tpd (*i.e.,* 4.4 tpd minus 4.0 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCSs and TCMs and any necessary additional TCSs and TCMs.

For the projected actual scenario calculation, CARB ran the EMFAC2017 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs and TCMs added or implemented since the base year. Significant VOC emissions reductions during the 2017–2037 timeframe result from the zero emission vehicle provisions of the Advanced Clean Cars program.[38]

As shown in Table 4, the projected actual attainment year VOC emissions are 3.8 tpd. CARB compared this value against the corresponding VMT offset ceiling value to determine whether additional TCSs or TCMs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions do not exceed the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that the adopted TCSs and TCMs are sufficient to offset the growth in emissions from the growth in VMT and vehicle trips in the West Mojave Desert for the 2015 ozone NAAQS.

3. The EPA's Review of the State's Submittals

The EPA reviewed the South Coast, Coachella Valley, and San Joaquin Valley VMT emissions offset demonstrations in the July 2020 submittal and the West Mojave Desert VMT emissions offset demonstration in the December 2020 submittal. Based on our review, we propose to find CARB's analysis to be consistent with our August 2012 Guidance and consistent with the emissions and vehicle activity estimates provided by CARB. We agree that the mobile source measures adopted by CARB and implemented by SCAG and the San Joaquin Valley MPOs are sufficient to offset growth in emissions from growth in VMT and vehicle trips in the South Coast, Coachella Valley, San Joaquin Valley, and West Mojave Desert for the purposes of the 2015 ozone NAAQS. Therefore, we propose to approve the South Coast, Coachella Valley, San Joaquin Valley, and West Mojave Desert VMT emissions offset demonstration elements as meeting the requirements of CAA section 182(d)(1)(A).

III. Proposed Action

For the reasons discussed in this notice, under CAA section 110(k)(3), the EPA is proposing to approve the following as revisions to the California SIP:

- VMT emissions offset demonstration element in the July 27, 2020 CARB submittal for the Los Angeles—South Coast Air Basin (South Coast), Riverside County (Coachella Valley), and San Joaquin Valley nonattainment areas as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1302 for the 2015 ozone NAAQS.
- VMT emissions offset demonstration element in the December 28, 2020 CARB submittal for the Los Angeles—San Bernardino Counties (West Mojave Desert) as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1302 for the 2015 ozone NAAQS.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

[38] Attachment B–1 to the July 2022 submittal includes a list of the state's TCSs adopted by CARB since 1990. Also see EPA final action on CARB mobile source SIP submittals at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018), and email dated August 16, 2022, from Nesamani Kalandiyur (CARB) to John Ungvarsky (EPA Region IX).

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act not already approved by the OMB.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This action will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments, or the private sector.

E. Executive Order 13132, Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, tribes, or the relationship between the national government and the states and tribes, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.''

The state's submission does not apply to any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175.

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

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

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

This proposed action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record indicating that this action would be inconsistent with the stated goals of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 14, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–27511 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 22–1237; MB Docket No. 22–398; RM–11935; FR ID 117110]

Radio Broadcasting Services; Ralston, Wyoming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Skye Media, LLC, proposing to amend the FM Table of Allotments, by allotting Channel 233C at Ralston, Wyoming, as the community's first local service. A staff engineering analysis indicates that Channel 233C can be allotted to Ralston, Wyoming, consistent with the minimum distance separation requirements of the Commission's rules (Rules), with a site restriction of 32.1 km (19.9 miles) southwest of the community. The reference coordinates are 44–29–42 NL and 109–09–12 WL.

DATES: Comments must be filed on or before January 23, 2023, and reply comments on or before February 7, 2023.

ADDRESSES: Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the counsel to petitioner as follows: Dawn M. Sciarrino, SCIARRINO & SHUBERT, PLLC, 330 Franklin Road, Suite 135A–133, Brentwood, TN 37013.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2054.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Federal Communications Commission's (Commission) Notice of Proposed Rule Making, MB Docket No. 22–398, adopted November 30, 2022, and released December 1, 2022. The full text of this Commission decision is available online at *https://apps.fcc.gov/ecfs.* The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at *https://www.fcc.gov/edocs.* This document does not contain proposed 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 l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 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 § 73.202(b), amend the Table of FM Allotments under Wyoming by adding an entry for ''Ralston'' to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

* * * * *

TABLE 1 TO PARAGRAPH (b)

*	*	*	*	*
				Channel No.
*	*	*	*	*
Wyoming				
*	*	*	*	*
Ralston				233C
*	*	*	*	*

* * * * *

[FR Doc. 2022–27620 Filed 12–19–22; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 515, 538 and 552

[GSAR Case 2019–G503; Docket No. 2022–0019; Sequence No. 1]

RIN 3090–AK09

General Services Administration Acquisition Regulation (GSAR); Streamline GSA Commercial Contract Clause Requirements

AGENCY: Office of Acquisition Policy, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify and streamline the clauses contracting officers should reference in GSA acquisitions for commercial products and commercial services. The rulemaking proposes to update several clauses and other related parts by eliminating out of date references and any requirements that are not necessary by law.

DATES: Interested parties should submit written comments to the Regulatory Secretariat as noted below on or before February 21, 2023 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to GSAR Case 2019–G503 to: *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''GSAR Case 2019–G503''. Select the link ''Comment Now'' that corresponds with GSAR Case 2019–G503. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''GSAR Case 2019–G503'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite GSAR Case 2019–G503, in all correspondence related to this case. 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 *https://www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Giles, Procurement Analyst, at *GSARPolicy@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755 or *GSARegsec@gsa.gov.* Please cite GSAR Case 2019–G503.

SUPPLEMENTARY INFORMATION:

I. Background

As the largest consumer of commercial products and services, the federal government must ensure its contracting officers include the appropriate safeguards when procuring these products and services. As part of GSA's regulatory review efforts, GSA identified several duplicative and outdated clauses incorporated by reference at GSAR 552.212–71 *Contract Terms and Conditions Applicable to GSA Acquisitions of Commercial Products and Commercial Services,* GSAR 552.212–72 *Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Products and Commercial Services,* and other related GSAR sections. This proposed rule streamlines and reorganizes the references in GSAR Clauses 552.212–71 and 552.212–72, and other related GSAR sections for contracting officers to consider inserting in solicitations and contracts for procuring commercial products and services. As a result, the deletion of some of the references within these clauses will reduce the time contracting officers spend on reviewing for applicability for commercial procurements.

GSA is amending the GSAR to reorganize 552.212–71 and 552.212–72 to reduce duplication of content and to ensure consistency within GSA's guidance as it relates to the acquisition of commercial products and commercial services. In addition, GSA is amending the GSAR to reorganize 515.408 and 538.273 to correct technical errors and clarify clauses.

II. Authority for This Rulemaking

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

III. Discussion and Analysis

GSA's review of the GSAR clauses for procuring commercial products and services resulted in the reorganization of GSAR clauses and applicable parts including the removal, transferring and

renumbering of referenced clauses within GSAR 552.212–71, 552.212–72 and other applicable GSAR sections to ensure contracting officers include the appropriate provisions and clauses in commercial contracts and solicitations. These changes can be categorized into three areas: (1) reorganization of commercial clauses and applicable parts; (2) relocation of an FSS clause; and (3) editorial changes.

1. Reorganization of Commercial Clauses and Applicable Parts

The proposed changes to the GSAR will:

a. Remove references to five (5) obsolete clauses in 552.212–71 that were deleted in previous GSAR cases. Based on GSA's review of GSAR 552.212–71, this rule proposes to remove the references to the following five (5) obsolete clauses:

(1) 552.228–70 *Workers' Compensation Laws*; [1]

(2) 552.232–71 *Adjusting Payment*; [2]

(3) 552.232–73 *Availability of Funds*; [3]

(4) 552.232–78 *Payment Information*; [4] and

(5) 552.246–76 *Warranty of Pesticides.* [5]

b. Remove references to clauses that only apply to procurements under the FSS or Multiple Award Schedule (MAS) program from GSAR 552.212–71 and 552.212–72. Based on GSA's review of GSAR 552.212–71 and 552.212–72, this proposed rule removes the following three (3) clauses that apply exclusively to FSS or MAS contracts and are not appropriate for broad commercial procurements:

(1) 552.215–72 *Price Adjustment—Failure to Provide Accurate Information*; [6]

(2) 552.238–73 *Identification of Electronic Office Equipment Providing Accessibility for the Handicapped;* and

(3) 552.238–78 *Identification of Products That Have Environmental Attributes.*

Removing references to these three (3) clauses will ensure consistency with GSA's previous amendments to the GSAR to consolidate clauses associated solely with GSA's FSS or MAS contracts into GSAR Part 538.[7]

c. Relocate all references to commercial contract clauses required by law from GSAR clause 552.212–71, which contains clauses required for GSA policy only, and add to GSAR clause 552.212–72, which is focused on statutory requirements. The two (2) clauses whose references are transferred and their respective statutory authorities are as follows:

(1) 552.215–70 *Examination of Records.* This clause is required by Examination of Facilities and Records of Contractor, 41 U.S.C. 4706*; and*

(2) 552.232–23 *Assignment of Claims.* This clause is required by the Assignment of Claims Act, 41 U.S.C. 6305, et. al.

2. Relocation of an FSS Clause

The proposed changes to the GSAR will relocate the prescription for GSAR 552.215–72 at paragraph (d) of 515.408 to the new paragraph (d)(36) at 538.273, and for conforming changes, renumber the price adjustment clause at GSAR 552.215–72 to 552.238–117. The relocation of this clause and its prescription is consistent with GSA's rewrite efforts to move all FSS or MAS clauses into GSAR Part 538.

3. Editorial Changes

The proposed change to the GSAR will:

a. Delete GSAR 515.408(a)(1) to remove obsolete reference to GSAR clause 552.212–70 *Preparation of Offer (Multiple Award Schedule)* and renumber accordingly. On February 2, 2010, GSA deleted GSAR 552.212–70 [8] but retained its text in GSA internal policy at I–FSS–972.[9] The proposed rule will eliminate all references to the obsolete GSAR clause 552.212–70 from GSAR 515.408.

b. Revise GSAR 552.212–71 to change the title of the referenced clause from GSAR 552.232–72 *Final Payment* to GSAR 552.232–72 *Final Payment Under Building Services Contracts;*

c. Correct grammatical errors in paragraphs (d)(2) and (d)(19) of 538.273; and

d. Incorporate minor editorial changes to enhance the readability of the following provision and clause designations and prescriptions:

(1) paragraph (d)(22) of GSAR 538.273;

(2) paragraph (a) of *GSAR* 552.212–71; and

(3) the introductory text of GSAR 552.212–72.

IV. 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. OMB anticipates that this will not be a significant regulatory action and, therefore, will not be subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

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. The General Services Administration will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule 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(2).

VI. Regulatory Flexibility Act

The General Services Administration does not expect this 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. 601, *et seq.* because the proposed changes to the GSAR do not add any requirement but rather will reorganize clauses by removing, transferring, re-titling and renumbering referenced clauses and will make technical and editorial changes to ensure contracting officers incorporate the correct clauses when procuring commercial products and

[1] See 74 FR 17099, dated May 14, 2009, deleting GSAR clause 552.228–70.

[2] See 74 FR 54915, dated November 25, 2009, deleting GSAR clause 552.232–71.

[3] Ibid., deleting GSAR clause 552.232–73.

[4] Ibid., deleting GSAR clause 552.232–78.

[5] See 74 FR 26110, dated June 1, 2009, deleting GSAR clause 552.246–76.

[6] The prescription for this clause at GSAR 515.408(d) directs contracting officers to insert this clause in solicitations and contracts under the MAS program when the contract contains the basic clause 552.238–80 Industrial Funding Fee and Sales Reporting.

[7] See 75 FR 5241, dated February 2, 2010, and 84 FR 17030, dated April 23, 2019.

[8] See 75 FR 5241 deleting GSAR clause 552.212–70 *Preparation of Offer (Multiple Award Schedule)* from GSAR Part 512 and contemplating moving the clause to GSAR Part 538 as a better fit. The final rule for this case did not move the clause, but did delete the clause.

[9] See Acquisition Letter MV–20–03, dated February 27, 2020, authorizing the continued use of Clause I–FSS–972, Preparation of Offer (Multiple Award Schedule).

commercial services. However, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603.

The Regulatory Secretariat will be submitting a copy of the Initial Regulatory Flexibility Analysis (IRFA) to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. The General Services Administration invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

The General Services Administration 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 (GSAR Case 2019–G503) in correspondence.

The analysis is summarized as follows:

The General Services Administration is proposing to amend the GSAR at 552.212–71 and 552.212–72 and related parts to clarify and streamline the contract terms and conditions applicable to GSA acquisitions of commercial products and commercial services.

The objective of the rule is to reorganize the appropriate GSAR clauses and parts currently used in commercial solicitations and contracts to reduce duplication and to ensure consistency within GSA's guidance.

The rule ensures that contracting officers consider the appropriate clauses in solicitations and contracts for procurements for commercial products and commercial services. The legal basis for the rule is Title 40 of the United States Code (U.S.C.) Section 121.

The rule applies to large and small businesses, which are awarded contracts for the acquisition of commercial products, including commercial components, and commercial services. Information generated from the System for Award Management (SAM), for Fiscal Years 2020–2021 has been used as the basis for estimating the number of contractors that may involve the procurement of commercial services and commercial products. The analysis focused on contracts for commercial items procured pursuant to the procedures in GSAR Part 512 (Acquisition of Commercial Items) and clause 552.212–4 that was included in the contract.

Examination of this data revealed in fiscal years 2020 and 2021, an average of 23,603 contracts were awarded for commercial products and services. Of these 23,603 new awards, an average of 11,297 (48%) contract awards were to small business entities.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses.

The General Services Administration does not expect this rule to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act, at 5 U.S.C. 601. This rule merely reorganizes requirements currently in use in solicitations and contracts involving the acquisition of commercial products and commercial services, and does not implement new or changed requirements.

This rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives to this rule which would accomplish the stated objectives. This rule does not initiate or impose any new administrative or performance requirements on small business contractors because the policies are already being followed.

VII. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 515, 538 and 552

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Therefore, GSA proposes to amend 48 CFR Parts 515, 538 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 515, 538 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 515—CONTRACTING BY NEGOTIATION

515.408 [Amended]

■ 2. Amend section 515.408 by—

■ a. Removing paragraph (a)(1);

■ b. Redesignating paragraphs (a)(2), (a)(3) and (a)(4) as paragraphs (a)(1), (a)(2) and (a)(3);

■ c. Removing from the introductory text of paragraph (b), ''Please refer to Clause 552.212–70, Preparation of Offer (Multiple Award Schedule), for additional information concerning your offer.'';

■ d. Removing from paragraph (b)(3) the phrase, ''(See definition of ''concession'' and ''discount'' in 552.212–70.)'';

■ e. Removing from paragraph (c) the first sentence in Column 2;

■ f. Removing paragraph (d); and

■ g. Redesignating paragraph (e) as paragraph (d).

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 3. Amend section 538.273 by—

■ a. Revising the introductory text of paragraph (d)(22); and

■ b. Adding paragraph (d)(37).

The revision and addition read as follows:

538.273 FSS solicitation provisions and contract clauses.

* * * * *

(d) * * *

(22) 552.238–98, Clauses for Overseas Coverage. Use only in FSS solicitations and contracts when overseas acquisition is contemplated. The GSAR clauses and GSAR provisions in paragraphs (d)(22)(i) through (xi) of this section shall also be inserted in full text, when applicable.

* * * * *

(37) 552.238–117, Price Adjustment—Failure to Provide Accurate Information. Use only in FSS solicitations and contracts under the MAS program. This clause is used when the contract contains the basic clause 552.238–80 Industrial Funding Fee and Sales Reporting.

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Revise section 552.212–71 to read as follows:

552.212–71 Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Products and Commercial Services.

As prescribed in 512.301(a)(1), insert the following clause:

Contract Terms and Conditions Applicable to GSA Acquisitions of Commercial Products and Commercial Services (Jan, 2022)

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial products, including commercial components, and commercial services. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The

Contracting Officer should check the clauses in paragraph (b) that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity. The GSAR clauses in paragraph (b) of this section are incorporated by reference.

(b) Clauses.

552.203–71 Restriction on Advertising
552.211–73 Marking
552.219–70 Allocation of Orders—Partially Set-Aside Items
552.229–70 Federal, State, and Local Taxes
552.232–72 Final Payment Under Building Services Contracts
552.237–71 Qualifications of Employees
552.242–70 Status Report of Orders and Shipments

■ 5. Revise section 552.212–72 to read as follows:

552.212–72 Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Products and Commercial Services.

As prescribed in 512.301(a)(2), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Products and Commercial Services (Jan 2022)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The contracting officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the lists in paragraphs (a) and (b). The contracting officer may add the date of the provision or clause if desired for clarity. The GSAR provisions in paragraph (a) and GSAR clauses in paragraph (b) are incorporated by reference.

(a) Provisions.

(b) Clauses.

552.215–70 Examination of Records by GSA
552.223–70 Hazardous Substances
552.223–71 Nonconforming Hazardous Material
552.223–73 Preservation, Packaging, Packing, Marking, and Labeling of Hazardous Materials (HAZMAT) for Shipments.
552.232–23 Assignment of Claims

(End of clause)

552.215–72 [Removed and Reserved]

■ 6. Remove and reserve section 552.215–72.

■ 7. Add section 552.238–117 to read as follows:

552.238–117 Price Adjustment—Failure to Provide Accurate Information.

As prescribed in 538.273(d)(36), insert the following clause:

Price Adjustment—Failure To Provide Accurate Information (Aug 1997)

(a) The Government, at its election, may reduce the price of this contract or contract modification if the Contracting Officer determines after award of this contract or contract modification that the price negotiated was increased by a significant amount because the Contractor failed to:

(1) Provide information required by this solicitation/contract or otherwise requested by the Government; or

(2) Submit information that was current, accurate, and complete; or

(3) Disclose changes in the Contractor's commercial pricelist(s), discounts or discounting policies which occurred after the original submission and prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the date it is submitted.

(c) If any reduction in the contract price under this clause reduces the price for items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States—

(1) The amount of the overpayment; and

(2) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective each quarter prescribed by the Secretary of Treasury under 26 U.S.C. 6621(a)(2).

(d) Failure to agree on the amount of the decrease shall be resolved as a dispute.

(e) In addition to the remedy in paragraph (a) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

[FR Doc. 2022–27106 Filed 12–19–22; 8:45 am]

BILLING CODE 6820–61–P

Notices

Federal Register

Vol. 87, No. 243

Tuesday, December 20, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0070]

Notice of Request for Extension of Approval of an Information Collection; Veterinary Services Field Operations Services Customer Service Survey Project

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection to evaluate service delivery by Veterinary Services Field Operations Service Centers to the public.

DATES: We will consider all comments that we receive on or before February 21, 2023.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2022–0070 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2022–0070, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at regulations.gov or in our reading room which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Veterinary Services Field Operations Services customer service survey project, contact Dr. Mark Remick, Director, Veterinary Export Trade Services (VETS), VS, Field Operations, APHIS, 4700 River Road, Riverdale, MD, 20737; *mark.a.remick@usda.gov;* 443–924–0720. For information about the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator; (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Veterinary Services Field Operations Services Customer Service Survey Project.

OMB Control Number: 0579–0334.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, among other things, regulates and provides services related to the importation, interstate movement, and exportation of animals, animal products, and other articles to prevent the spread of pests and diseases of livestock. APHIS' Veterinary Services' (VS') Field Operations is the program unit that carries out these activities at the field level through service centers and the air and seaports to protect animal health.

After performing a service for an individual or business at one of the above locations, the VS Field Operations Service Centers conduct a survey to evaluate customer service. The survey consists of a short questionnaire in which respondents are asked to identify the type of customer they are (*e.g.,* pet owner, animal importer/exporter, animal product and byproduct importer/exporter, user of quarantine facilities, or accredited veterinarian), and to rate the services received in terms of courtesy, timeliness, helpfulness, etc. Respondents are also asked to rate and provide comments concerning their overall experience. Completion of the questionnaire is voluntary, and responses do not identify the individual respondent.

Field Operations uses the survey to gain a general view of the public's perception of customer service at VS Service Centers and air and seaports, and identify areas in which VS can improve service delivery to the public and more efficiently meet the needs and expectations of customers.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.089 hours per response.

Respondents: Members of the public who receive services from Veterinary Services (*e.g.,* pet owners, animal importers/exporters, animal product and byproduct importers/exporters, users of quarantine facilities, and accredited veterinarians).

Estimated annual number of respondents: 4,967.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 6,601.

Estimated total annual burden on respondents: 587 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 14th day of December 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–27555 Filed 12–19–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business–Cooperative Service

[Docket No. RBS–22—Business–0021]

Notice of Solicitation of Applications for the Rural Business Development Grant Programs for Fiscal Year 2023; Correction

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice, correction.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), an agency of the United States Department of Agriculture (USDA), published a Notice of Solicitation of Applications (NOSA) in the **Federal Register** (FR) on November 23, 2022, entitled Notice of Solicitation of Applications for the Rural Business Development Grant Programs for Fiscal Year 2023 to announce that it was accepting applications for Fiscal Year (FY) 2023 and the availability of approximately $46,000,000 in competitive grants. In addition, the NOSA described requirements that are determined at the time a funding announcement is published, as outlined in the program regulation. This notice will amend Section D.5 of the NOSA to clarify that Intergovernmental Review under Executive Order 12372 is required for this program.

DATES: Complete applications may be submitted in paper or electronic format and must be received by 4:30 p.m. local time on February 28, 2023, in the USDA Rural Development (RD) State Office for the State where the project is located. A list of the USDA RD State Offices can be found at: *https://www.rd.usda.gov/about-rd/state-offices.*

FOR FURTHER INFORMATION CONTACT: Lisa Sharp at *lisa.sharp@usda.gov,* or Cindy Mason at *cindy.mason@usda.gov,* or call (202) 720–1400.

SUPPLEMENTARY INFORMATION:

Amendments

The following amendment is being made to FR Doc 2022–25532, published on November 23, 2022 (87 FR 71571), to specify that the Intergovernmental Review under Executive Order 12372 is required for this program. On page 71573, column 2, under Section D ''Application and Submission Information,'' subsection 5 ''Intergovernmental Review,'' the paragraph should be amended and restated in its entirety to read as follows:

Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of States that maintain a SPOC, please see the White House website: *https://www.whitehouse.gov/omb/management/office-federal-financial-management/.* If your State has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application. If your state has not established a SPOC, you may submit your application directly to the Agency or you may provide evidence that the State has elected not to review the program under Executive Order 12372. Applications from Federally recognized Indian Tribes are not subject to this requirement.

Karama Neal,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2022–27567 Filed 12–19–22; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Nevada 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 Nevada Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via ZoomGov at 12:00 p.m. Pacific on Friday, January 27, 2023. The purpose of the meeting is to prepare to host a series of web-based public hearings regarding Teacher and Professional Staff Shortages and Equity in Education.

DATES: The meeting will take place on Friday, January 27, 2023, from 12:00 p.m.—1:00 p.m. PT.

Link To Join (Audio/Visual): *https://bit.ly/3Wmj8sq.*

Telephone (Audio Only): Dial (833) 435–1820 USA Toll Free; Meeting ID: 160 262 4098.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, Designated Federal Officer, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference 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. 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. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *mwojnaroski@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Angelica Trevino at *atrevino@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, 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, Nevada 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. Discussion: Panelist selection
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: December 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–27595 Filed 12–19–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the South Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of 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 South Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a business meeting on Thursday, January 5, 2023, at 12:00 p.m. (ET). The purpose of the meeting is to discuss the post-report stage of the Committee's project on Civil Asset Forfeiture in South Carolina.

DATES: The meeting will take place on Thursday, January 5, 2023, at 12:00 p.m. (ET).

Meeting Link (Audio/Visual): http://tinyurl.com/t7awfurz.

Telephone (Audio Only): 1–833–435–1820; Meeting ID: 161 418 4238#.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez, DFO, at *ero@usccr.gov* or 1–202–529–8246.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference 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. 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. 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 conference details found through registering at the web link above. To request additional accommodations, please email *ero@usccr.gov* at least ten (10) 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 Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at 1–202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, 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, South Carolina 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 email or street address.

Agenda

I. Welcome and Roll Call
II. Discussion: Post-Report Activities
III. Other Business
IV. Next Steps
V. Public Comment
VI. Adjournment

Dated: December 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–27594 Filed 12–19–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Virgin Islands Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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, that the Virgin Islands Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a web meeting via Zoom at 12 p.m. AST (11 a.m. ET) on Tuesday, January 3, 2023, for the purpose of identifying potential speakers for a series of briefing on voting rights.

DATES: The meeting will take place on Tuesday, January 3, 2023, at 12 p.m. AST (11 a.m. ET).

ADDRESSES:

Meeting Link (Audio/Visual): https://tinyurl.com/y255cefd.

Telephone (Audio Only): Dial: 1–833–435–1820; Meeting ID: 161 339 5420.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez, DFO, at *ero@usccr.gov* or 1–202–529–8246.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the meeting 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. 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. 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 conference details found through registering at the web link above. To request additional accommodations, please email *ero@usccr.gov* at least ten (10) 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 Sarah Villanueva at *svillanueva@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at 1–202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, 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, Virgin Islands 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 email or street address.

Agenda

I. Welcome & Roll Call
II. Briefing Planning
III. Other Business
IV. Next Steps
V. Public Comment
VI. Adjournment

Dated: December 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–27592 Filed 12–19–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Monthly Wholesale Trade Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on October 6, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Monthly Wholesale Trade Survey.

OMB Control Number: 0607–0190.

Form Number(s): SM4217–A, SM4217–E.

Type of Request: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Number of Respondents: 4,200.

Average Hours per Response: 7 minutes.

Burden Hours: 5,880.

Needs and Uses: The U.S. Census Bureau requests a three-year extension of the Monthly Wholesale Trade Survey (MWTS). The MWTS canvasses firms primarily engaged in merchant wholesale trade that are located in the United States, excluding manufacturers' sales branches and offices (MSBOs). This survey provides the only continuous measure of monthly wholesale sales, end-of-month inventories, and inventories-to-sales ratios. The sales and inventories estimates produced from the MWTS provide current trends of economic activity by kind of business for the United States. Also, the estimates compiled from this survey provide valuable information for economic policy decisions by the government and are widely used by private businesses, trade organizations, professional associations, and other business research and analysis organizations.

Estimates from the MWTS are released in three different reports each month. High level aggregate estimates for end-of-month inventories are first released as part of the Advance Economic Indicators Report. Second, the full Monthly Wholesale Trade Report containing both sales and inventories estimates is released. Lastly, high level sales and inventories estimates from the MWTS are also released as part of the Manufacturing and Trade Inventories and Sales (MTIS) report.

The MWTS sales estimates are also used as an input in the Monthly Real Dollar Estimates of Wholesale Sales experimental data product, first published on September 19, 2022, which is a supplement to the MWTS report. The estimates were created from the nominal MWTS sales series using product weights developed from existing Census Bureau data releases and price indexes from the BLS. Within the report, real dollar sales estimates and corresponding residuals are available for Total Merchant Wholesalers, except Manufacturers' Sales Branches and Offices, as well as the two 3-digit and eighteen 4-digit North American Industry Classification System (NAICS) wholesale subsectors. Monthly estimates are available from January 2012 forward and are published with the MWTS report each month.

As one of the Census Bureau's principal economic indicators, the estimates produced by the MWTS are critical to the accurate measurement of total economic activity of the United States. The estimates of sales made by wholesale locations represent only merchant wholesalers, excluding MSBOs, who typically take title to goods bought for resale and sell to other businesses. The sales estimates include sales made on credit as well as on a cash basis, but exclude receipts from sales taxes and interest charges from credit sales.

The estimates of inventories represent all merchandise held in wholesale locations, warehouses, and offices, as well as goods held by others for sale on consignment or in transit for distribution to wholesale establishments. The estimates of inventories exclude fixtures and supplies not for resale, as well as merchandise held on consignment, which are owned by others. Inventories are an important component in the Bureau of Economic Analysis' (BEA) calculation of the investment portion of the Gross Domestic Product (GDP).

The Census Bureau publishes wholesale sales and inventories estimates based on the North American Industry Classification System (NAICS), which has been widely adopted throughout both the public and private sectors.

The Census Bureau tabulates the collected data to provide, with measurable reliability, statistics on sales, end-of-month inventories, and inventories-to-sales ratios for merchant wholesalers, excluding MSBOs.

The BEA is the primary Federal user of data collected in the MWTS. The BEA uses estimates from this survey to prepare the national income and product accounts (NIPA), input-output accounts (I–O), and gross domestic product (GDP) by industry. End-of-month inventories are used to prepare the change in private inventories component of GDP. The BEA also uses the Advance Economic Indicators Report to improve the inventory valuation adjustments applied to estimates of the Advance Gross Domestic Product. Sales are used to prepare estimates of real inventories-to-sales ratios in the NIPAs, extrapolate proprietors' income for wholesalers (until tax return data become available) in the NIPAs, and extrapolate annual current-dollar gross output for the most recent year in annual I–O tables, GDP-by-industry, and advance GDP-by-industry estimates.

The Bureau of Labor Statistics uses the data as input to its Producer Price Indexes and in developing productivity measurements. Private businesses use the wholesale sales and inventories data in computing business activity indexes. Other government agencies and businesses use this information for market research, product development, and business planning to gauge the current trends of the economy.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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

entering either the title of the collection or the OMB Control Number 0607–0190.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–27629 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Decision on Applicationfor Duty-Free Entry of Scientific Instruments; University of Florida, et al.

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). On November 22, 2022, the Department of Commerce published a notice in the **Federal Register** requesting public comment on whether instruments of equivalent scientific value, for the purposes for which the instruments identified in the docket(s) below are intended to be used, are being manufactured in the United States. *See Application(s) for Duty-Free Entry of Scientific Instruments, 87FR71302–03, November 22, 2022 (Notice).* We received no public comments.

Docket Number:23–001. Applicant: University of Florida, Department of Medical Engineering, 4202 E Fowler Avenue, ENG 030, Tampa, FL 33620. Instrument: Bowl-shaped 1024 ultrasound transducer array. Manufacturer: Hebei ULSO Tech Company, Ltd., China. Intended Use: The instrument will be used to build up a real-time three-dimensional (3D) Photoacoustic Tomography (PAT) imaging system for a National Institutes of Health (NIH) granted research project. The goal of this research is to develop a novel photoacoustic imaging approach that will allow non-invasive, simultaneous three-dimensional visualization of all the embryos in mouse utero and track their birth/adulthood longitudinally to study the association between maternal alcohol exposure induced fetal hemodynamic changes and the outcome of fetal alcohol spectrum disorder (FASD) after birth.

Docket Number: 23–002. *Applicant:* University of South Florida, Department of Medical Engineering, 4202 E Fowler Avenue, ENG 030, Tampa, FL 33620. *Instrument:* Annular ring 256 ultrasound transducer array. *Manufacturer:* Hebei ULSO Tech Company, Ltd., China. *Intended Use:* This instrument will be used to build up a real-time two-dimensional (2D) Photoacoustic Tomography (PAT) imaging system and a Thermoacoustic Tomography (TAT) imaging system, in which a high-quality transducer probe is the key part. The ultrasound signal generated from the tissue by absorption of pulsed laser in PAT or of microwave source in TAT will be collected by transducer elements from different angles. Using specific imaging reconstruction algorithm, the 2D images of the tissue could be reconstructed. The new PAT and TAT imaging system based on this new transducer probe will be used to study the neural activity and hemodynamic response in the brain of patients with epilepsy.

Docket Number: 23–003. *Applicant:* University of South Florida, Department of Medical Engineering, 4202 E Fowler Avenue, ENG 030, Tampa, FL 33620. *Instrument:* L-band Microwave source. *Manufacturer:* Hebei ULSO Tech Co., Ltd., China. *Intended Use:* This instrument will be used to build up a real-time two-dimensional (2D) thermoacoustic tomography imaging (TAT) system. It will work with the annular ring-shaped transducer probe (another order). This novel TAT imaging system will be applied in the research of gene therapy, cancer-diagnosis and so on. This new L-band microwave has different center frequency and much stronger output power, will provide the capability to penetrate deeper in the tissue with better image quality.

Dated: December 14, 2022.

Gregory W. Campbell,

Director, Subsidies and Economic Analysis, Enforcement and Compliance.

[FR Doc. 2022–27519 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 03–5A008]

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review to California Pistachio Export Council, LLC (''CPEC''), application no. 03–5A008.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (''OTEA''), issued an Export Trade Certificate of Review to CPEC on December 7, 2022.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, OTEA, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4011–21) (''the Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

CPEC amended its Certificate as follows:

1. Added the following entity as a Member of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

a. Horizon Nut, LLC

List of Members, as amended:

1. Horizon Nut, LLC
2. Keenan Farms, Inc.
3. Meridian Nut Growers, LLC
4. Monarch Nut Company
5. Primex Farms, LLC
6. Setton Pistachio of Terra Bella, Inc.
7. Zymex Industries, Inc.

The effective date of the amended certificate is September 9, 2022, the date on which CPEC's application to amend was deemed submitted.

Dated: December 14, 2022.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2022–27493 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 10–6A001]

Export Trade Certificate of Review

ACTION: Corrected notice of application for an amended Export Trade Certificate of Review for Alaska Longline Cod Commission, Application No. 10–6A001.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, has received an application for an amended Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and seeks public comments on whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, OTEA, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) (''the Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

Written comments should be sent to *etca@trade.gov.* An original and two (2) copies should also be submitted no later than 20 days after the date of this notice to Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 10–6A001.''

Correction

In the **Federal Register** of November 3, 2022, in 87 FR 66272, the Export Product defined ''ray wings'' as being derived from ''Alaska skate.'' The correct term is ''various species of skate.''

These corrections are reflected in the revised Summary of the Application below.

Summary of the Application

Applicant: Alaska Longline Cod Commission, c/o Mundt MacGregor L.L.P., 271 Wyatt Way NE, Suite 106, Bainbridge Island, WA, 98110.

Contact: Duncan McIntosh, Attorney at Law.

Application No.: 10–6A001.

Date Deemed Submitted: October 21, 2022.

Proposed Amendment: Alaska Longline Cod Commission (''ALCC'') seeks to amend its Certificate as follows:

1. Under Export Trade, change references of Export Product to Export Products.

2. Add the following six products as Export Products within the meaning of section 325.2(j) of the Regulations (15 CFR 325.2(j)):

a. cod heads
b. cod collars
c. cod roe
d. cod chu
e. cod milt
f. ray wings

3. Change the reference to Export Product in the following sentence:

Change ''Frozen-at-sea means that the Export Product is frozen on the catcher-processor vessel while at-sea immediately after being headed and gutted.'' to ''Frozen-at-sea means that the Alaska cod is frozen on the catcher-processor vessel while at-sea immediately after being headed and gutted.''

The proposed amendment would result in the following Export Products under Export Trade in the Certificate:

Export Products

ALCC plans to export frozen at-sea, headed and gutted, Alaska cod (Gadus macrocephalus), also known as Pacific cod. Headed and gutted means the head and viscera are removed prior to freezing. Frozen-at-sea means that the Alaska cod is frozen on the catcher-processor vessel while at-sea immediately after being headed and gutted.

ALCC also plans to export byproducts of ALCC frozen-at-sea, headed and gutted Alaska cod: cod heads; cod collars; cod roe; cod chu; cod milt; and ray wings. The cod heads, cod collars, cod roe, cod chu, and cod milt are derived from parts of the Alaska cod remaining after the heading-and-gutting of the cod to produce frozen-at-sea headed and gutted Alaska cod. The ray wings are derived from various species of skate, which are caught incidentally while targeting Alaska cod.

Membership remains the same following this amendment:

1. Akulurak LLC, Seattle, WA;
2. Alaskan Leader Fisheries LLC, Lynden, WA;
3. Alaskan Leader Seafoods LLC, Lynden, WA;
4. Alaskan Leader Vessel LLC, Lynden, WA;
5. Aleutian Longline, LLC, Seattle, WA;
6. Aleutian Spray Fisheries, Inc., Seattle, WA;
7. Beauty Bay Washington, LLC, Bothell, WA;
8. Bering Leader Fisheries LLC, Lynden, WA;
9. Bristol Leader Fisheries LLC, Lynden, WA;
10. Bristol Wave Seafoods, LLC, Seattle, WA;
11. Coastal Alaska Premier Seafoods, LLC, Anchorage, AK;
12. Coastal Villages Longline LLC, Anchorage, AK;
13. Deep Sea Fisheries, Inc., Everett, WA;
14. Gulf Mist, Inc., Everett, WA;
15. Gulf Prowler, LLC, Juneau, AK;
16. Kodiak Leader Fisheries LLC, Lynden, WA;
17. Northern Leader Fisheries LLC, Lynden, WA;
18. Romanzof Fishing Company, L.L.C., Seattle, WA;
19. Shelford's Boat, Ltd., Mill Creek, WA;
20. Siu Alaska Corporation, Anchorage, AK;
21. Starfish Reverse, LLC, Seattle, WA;
22. Tatoosh Seafoods, LLC, Kingston, WA.

Dated: December 14, 2022.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2022–27509 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–873]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Preliminary Results of Antidumping Duty Administrative Reviews of Goodluck India Limited; 2017–2019 and 2019–2020

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that Goodluck India Limited (Goodluck) made sales of certain cold-drawn mechanical tubing of carbon and alloy steel (CDMT) from India in the United States at prices below normal value (NV) during the periods of review (PORs) of November 22, 2017, through May 31, 2019 (AR1) and June 1, 2019, through May 31, 2020 (AR2). We invite interested parties to comment on these preliminary results.

DATES: Applicable December 20, 2022.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 2018, Commerce published in the **Federal Register** the antidumping duty (AD) order on CDMT from India.[1] On July 29, 2019, we initiated an administrative review of 16 companies, including Goodluck (*i.e.,* AR1).[2] Prior to the conclusion of AR1, pursuant to a decision of the U.S. Court of International Trade, entries of CDMT produced and exported by Goodluck were excluded from the *Order,*[3] and AR1 was suspended with respect to the company.

On August 6, 2020, we initiated an administrative review (AR2) of three companies, including Goodluck. However, due to the above-referenced exclusion, the review only covered a limited subset of Goodluck's entries, *i.e.,* entries that were produced, but not exported by, Goodluck, and entries that were exported, but not produced, by Goodluck.[4]

On December 29, 2021, following Goodluck's reinstatement in the *Order,* Commerce published a notice announcing the resumption of AR1 with respect to Goodluck, and the reinitiation of AR2 with respect to Goodluck.[5]

On August 17, 2022, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce determined that it was not practicable to complete the preliminary results of these reviews within 245 days, and we extended the preliminary results by 70 days, until November 9, 2022.[6] On November 4, 2022, Commerce further extended the preliminary results for AR1 and AR2 by 35 days to December 14, 2022.[7]

For details regarding the events that occurred subsequent to the resumption and reinitiation of these reviews, *see* the Preliminary Decision Memorandum.[8] A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The merchandise covered by the *Order* is certain cold-drawn mechanical tubing of carbon and alloy steel from India. For a full description of the scope, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting these reviews in accordance with sections 751(a)(1) and (2) of the Act. We calculated export price in accordance with section 772 of the Act. We calculated NV in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of Reviews

We preliminarily determine the following weighted-average dumping margin exists for the period November 22, 2017, through May 31, 2019:

Exporter/producer	Weighted-average dumping margin (percent)
Goodluck India Limited	1.59

We preliminarily determine the following weighted-average dumping margin exists for the period June 1, 2019, through May 31, 2020:

Exporter and producer	Weighted-average dumping margin (percent)
Goodluck India Limited	1.39

Assessment Rates

Upon completion of these administrative reviews, Commerce shall determine, and CBP shall assess, AD duties on all appropriate entries. If Goodluck's weighted-average dumping margin in either review is zero or *de minimis* within the meaning of 19 CFR 351.106(c), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's ''automatic assessment'' practice, for

[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Antidumping Duty Orders; and Amended Final Determinations of Sales at Less Than Fair Value for the People's Republic of China and Switzerland,* 83 FR 26962 (June 11, 2018) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 36572 (July 29, 2019).

[3] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part,* 85 FR 31742 (May 27, 2020).

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 47731 (August 6, 2020); *see also Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020,* 86 FR 59982 (October 29, 2021) (finding that Goodluck had no shipments during the POR under the producer/exporter combinations under review).

[5] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Notice of Second Amended Final Determination; Notice of Amended Order; Notice of Resumption of First and Reinitiation of Second Antidumping Duty Administrative Reviews; Notice of Opportunity for Withdrawal; and Notice of Assessment in Third Antidumping Duty Administrative Review,* 86 FR 74069 (December 29, 2021) (*AR1 Resumption and AR2 Reinitiation Notice*). As a result of Goodluck's reinstatement to the *Order,* AR2 now covers all entries produced and exported by Goodluck during the POR.

[6] *See* Memorandum, ''Extension of Deadline for Preliminary Results of 2017–2019 and 2019–2020 Antidumping Duty Administrative Reviews of Goodluck India Limited,'' dated August 17, 2022.

[7] *See* Memorandum, ''Extension of Deadline for Preliminary Results of 2017–2019 and 2019–2020 Antidumping Duty Administrative Reviews of Goodluck India Limited,'' dated November 4, 2022.

[8] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Reviews of Goodluck India Limited,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

entries of subject merchandise during the PORs produced by Goodluck where the company did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.[9]

The final results of these reviews shall be the basis for the assessment of AD duties on entries of merchandise covered by these reviews and the final results of AR2 shall be the basis for future deposits of estimated duties, where applicable.[10]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of these reviews in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(2)(C) of the Act: the cash deposit rate for merchandise produced and exported by Goodluck will be equal to the weighted-average dumping margin established in the final results of AR2, except if the rate is *de minimis* (*i.e.,* less than 0.50 percent), in which case the cash deposit rate will be zero. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days of public announcement of the preliminary results or, if there is no public announcement, within five days of the date of publication of this notice.[11] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[12] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[13] Case and rebuttal briefs should be filed using ACCESS.[14] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[15]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[16] Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[17] Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[18] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless otherwise extended, Commerce intends to issue the final results of these administrative reviews, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: December 13, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2022–27521 Filed 12–19–22; 8:45 am]

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[9] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[10] *See* section 751(a)(2)(C) of the Act.

[11] *See* 19 CFR 351.224(b).

[12] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[13] *See* 19 CFR 351.309(c)(2) and (d)(2).

[14] *See generally* 19 CFR 351.303.

[15] *See Temporary Rule.*

[16] *See* 19 CFR 351.310(c).

[17] *See* 19 CFR 351.310.

[18] *See* 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–914]

Certain Superabsorbent Polymers From the Republic of Korea: Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing the antidumping duty order on certain superabsorbent polymers (SAP) from the Republic of Korea (Korea).

DATES: Applicable December 20, 2022.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo or Elfi Blum, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3797 or (202) 482–0197, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on October 27, 2022, Commerce published its final affirmative determination in the less-than-fair-value (LTFV) investigation of

SAP from Korea.[1] On December 8, 2022, the ITC notified Commerce of its final affirmative determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of LTFV imports of SAP from Korea.[2]

Scope of the Order

The products covered by this order are SAP from Korea. For a complete description of the scope of this order, *see* the appendix to this notice.

Antidumping Duty Order

On December 8, 2022, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of SAP from Korea.[3] Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing this antidumping duty order. Because the ITC determined that imports of SAP from Korea are materially injuring a U.S. industry, unliquidated entries of such merchandise from Korea, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

As a result of the ITC's final affirmative determination, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise, for all relevant entries of SAP from Korea. Antidumping duties will be assessed on unliquidated entries of SAP from Korea entered, or withdrawn from warehouse, for consumption on or after June 7, 2022, the date of publication of the *Preliminary Determination,*[4] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

Continuation of Suspension of Liquidation

Except as noted in the ''Provisional Measures'' section of this notice, in accordance with section 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation of all relevant entries of SAP from Korea, as described in the Appendix to this notice, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins included in the table below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit Customs duties on subject merchandise, a cash deposit equal to the estimated weighted-average dumping margins listed in the tables below. The all-others rate applies to all producers or exporters not specifically listed.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated weighted-average dumping margin (percent)
LG Chem, Ltd	17.64
All Others	17.64

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except that Commerce may extend the four-month period to no more than six months at the request of exporters representing a significant portion of exports of the subject merchandise. At the request of an exporter that accounts for a significant proportion of SAP from Korea, Commerce extended the four-month period to six months in the *Preliminary Determination,* published on June 7, 2022.[5] Therefore, the extended provisional measures period, beginning on the date of publication of the *Preliminary Determination,* ended on December 3, 2022. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 736(a)(1) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of SAP from Korea, entered, or withdrawn from warehouse, for consumption on or after December 4, 2022, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[6] On September 27, 2021, Commerce also published the notice titled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[7] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[8] In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication

[1] *See Certain Superabsorbent Polymers from the Republic of Korea: Final Determination of Sales at Less Than Fair Value,* 87 FR 65035 (October 27, 2022) (*Final Determination*), and accompanying Issues and Decision Memorandum.

[2] *See* ITC's Letter, ''Notification of Final Determination,'' dated December 8, 2022.

[3] *Id.*

[4] *See Certain Superabsorbent Polymers from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures,* 87 FR 34647 (June 7, 2022) (*Preliminary Determination*).

[5] *See Preliminary Determination.*

[6] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[7] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[8] *Id.*

of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [9]

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [10] Accordingly, as stated above, the petitioner and Government of Korea should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for this order. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the Government of Korea will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the Government of Korea are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to SAP from Korea, pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *https://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: December 13, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Order

The merchandise covered by this order is superabsorbent polymers (SAP), which is cross-linked sodium polyacrylate most commonly conforming to Chemical Abstracts Service (CAS) registry number 9003–04–7, where at least 90 percent of the dry matter, by weight on a nominal basis, corrected for moisture content, is comprised of a polymer with a chemical formula of $(C_3H_3O_2Na_xH_{1-x})_n$, where *x* is within a range of 0.00—1.00 and there is no limit to *n.* The subject merchandise also includes merchandise with a chemical formula of $\{(C_2H_3)COONa_yH(_{1-y})\}_n$, where *y* is within a range of 0.00—1.00 and there is no limit to *n.* The subject merchandise includes SAP which is fully neutralized as well as SAP that is not fully neutralized.

The subject merchandise may also conform to CAS numbers 25549–84–2, 77751–27–0, 9065–11–6, 9033–79–8, 164715–58–6, 445299–36–5, 912842–45–6, 561012–86–0, 561012–85–9, or 9003–01–4.

All forms and sizes of SAP, regardless of packaging type, including but not limited to granules, pellets, powder, fibers, flakes, liquid, or gel are within the scope of this order. The scope also includes SAP whether or not it incorporates additives for anticaking, anti-odor, anti-yellowing, or similar functions.

The scope also includes SAP that is combined, commingled, or mixed with other products after final sieving. For such combined products, only the SAP component is covered by the scope of this order. SAP that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries. A combination is excluded from this order if the total SAP component of the combination (regardless of the source or sources) comprises less than 50 percent of the combination, on a nominal dry weight basis.

SAP is classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3906.90.5000. SAP may also enter the United States under HTSUS 3906.10.0000. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2022–27520 Filed 12–19–22; 8:45 am]

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[9] This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[10] *See Final Rule,* 86 FR at 52335.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC454]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Geophysical Survey in the Ross Sea, Antarctica

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

ACTION: Notice; Issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the U.S. National Science Foundation (NSF) to incidentally harass marine mammals during geophysical surveys in the Ross Sea, Antarctica.

DATES: This authorization is effective from December 15, 2022 through December 14, 2023.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-national-science-foundation-office-polar-programs-geophysical.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On May 26, 2022, NMFS received a request from NSF for an IHA to take marine mammals incidental to conducting a low energy seismic survey and icebreaking in the Ross Sea. The application was deemed adequate and complete on July 22, 2022. NSF's request is for take of small numbers of 17 species of marine mammals by Level B harassment only. Neither NSF nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. The proposed IHA was published on September 29, 2022 (87 FR 59204). There are no changes from the proposed IHA to the final IHA.

Description of Activity

Overview

Researchers from Louisiana State University, Texas A&M University, University of Texas at Austin, University of West Florida, and Dauphin Island Sea Lab, with funding from NSF, plan to conduct a two-part low-energy seismic survey from the Research Vessel/Icebreaker (RVIB) Nathaniel B. Palmer (NBP), in the Ross Sea during Austral Summer 2022–2023. The two-part survey would include the Ross Bank and the Drygalski Trough areas. The planned seismic survey would take place in International waters of the Southern Ocean, in water depths ranging from approximately (~) 150 to 1100 meters (m).

The RVIB *Palmer* would deploy up to two 105-cubic inch (in^3) generator injector (GI) airguns at a depth of 1–4 m with a total maximum discharge volume for the largest, 2-airgun array of 210 in^3 along predetermined track lines. During the Ross Bank survey, ~1920 km of seismic data would be collected and during the Drygalski Trough survey, ~1800 km of seismic acquisition would occur, for a total of 3720 line km.

Although the survey will occur in the Austral summer, some icebreaking activities are expected to be required during the cruise.

The Ross Bank portion of activity is to determine if, how, when, and why the Ross Ice Shelf unpinned from Ross Bank in the recent geologic past, to assess to what degree that event caused a re-organization of ice sheet and ice shelf flow towards its current configuration. The Drygalski Trough activities plan to examine the gas hydrate contribution to the Ross Sea carbon budget. The Drygalski Trough activities would examine the warming and carbon cycling of the ephemeral reservoir of carbon at the extensive bottom ocean layer–sediment interface of the Ross Sea. This large carbon reserve appears to be sealed in the form of gas hydrate and is a thermogenic carbon source and carbon storage in deep sediment hydrates. The warming and ice melting coupled with high thermogenic gas hydrate loadings suggest the Ross Sea is an essential environment to determine contributions of current day and potential future methane, petroleum, and glacial carbon to shallow sediment and water column carbon cycles.

Dates and Duration

The RVIB *Palmer* would likely depart from Lyttelton, New Zealand, on December 18, 2022, and would return to McMurdo Station, Antarctica, on January 18, 2023, after the program is completed. The cruise is expected to consist of 31 days at sea, including approximately 19 days of seismic operations (including 2 days of sea trials and/or contingency), 1 day of ocean bottom seismometer (OBS) deployment/recovery, and approximately 11 days of transit. Some deviation in timing and ports of call could also result from unforeseen events such as weather or logistical issues.

Specific Geographic Region

The survey would take place in the Ross Sea, Antarctica (continental shelf between ~75°–77.7°S and 1 71°E–173° E and Drygalski Trough between ~74°76.7° S and 163.6°E–170° E (Figure 1) in international waters of the Southern Ocean in water depths ranging from approximately 150 to 1100 m. Representative survey tracklines are shown in Figure 1; however, the actual survey effort could occur anywhere within the outlined study area as shown. The line locations for the survey area are preliminary and could be refined in light of information from data collected during the study and conditions within the survey area.

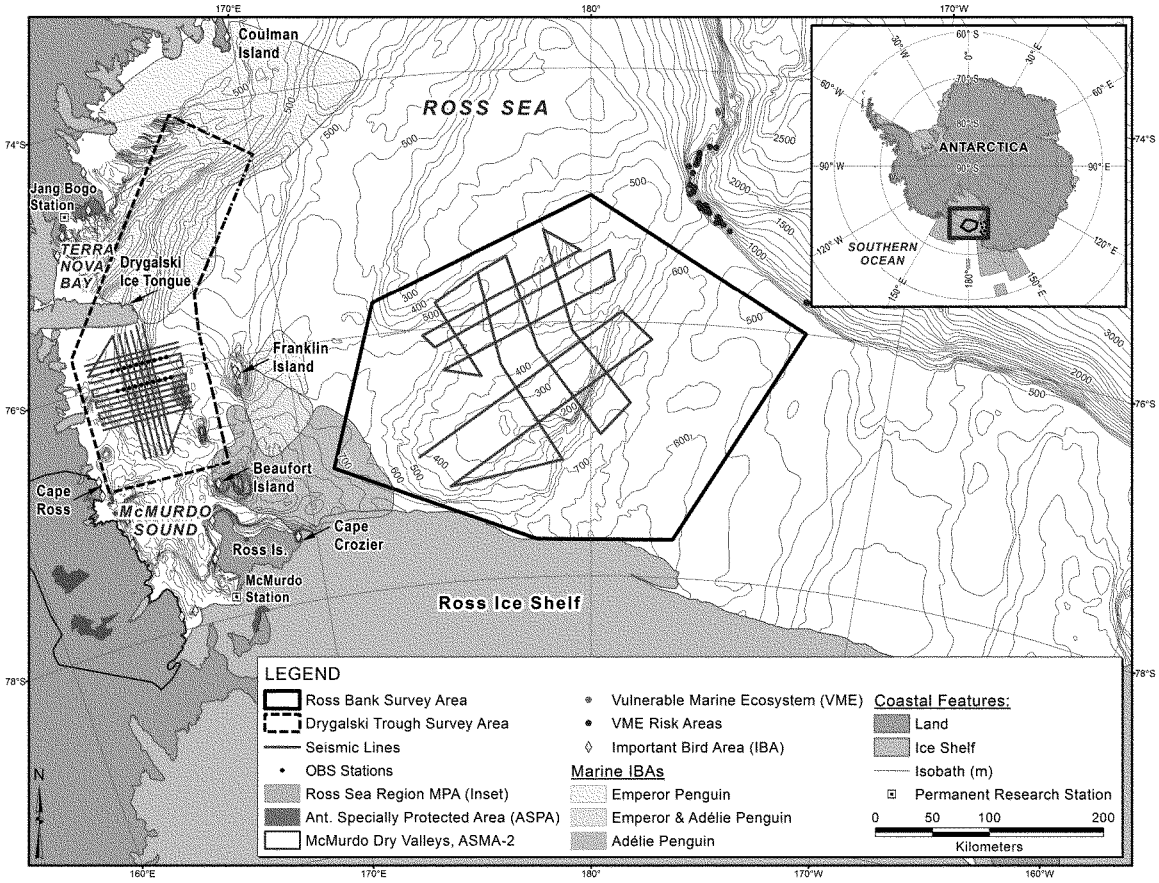

Figure 1 — Ross Sea Survey areas for the low-energy seismic survey in the Ross Sea during austral summer 2022/2023*

*Showing representative transect lines and the protected areas. Ant. = Antarctic. ASMA = Antarctic Specially Managed Area. IBA = Important Bird Area. Sources: Davey (2013), CCAMLR (2017), Handley *et al.* (2021), and British Antarctic Survey (2022).

Detailed Description of Specific Activity

The procedures to be used for the survey would entail use of conventional seismic methodology. The survey would involve one source vessel, RVIB *Palmer* and the airgun array would be deployed at a depth of approximately 1–4 m below the surface, spaced approximately 2.4 m apart for the 2-gun array. Seismic acquisition is planned to begin with a standard sea trial to determine which configuration and mode of GI airgun(s) provide the best reflection signals, which depends on sea-state and subsurface conditions. A maximum of two GI airguns would be used. Four GI configurations (each using one or two GI airguns) would be tested during the sea trial (Table 1). The largest volume airgun configuration (configuration 4) was carried forward in our analysis and used for estimating the take numbers for authorization.

The RVIB *Palmer* would deploy two 105 in^3 GI airguns as an energy source with a total volume of ~210 in^3. Seismic pulses would be emitted at intervals of 5 to 10 seconds from the GI airgun. The receiving system would consist of one hydrophone streamer, 800 m in length, with the vessel traveling at 8.3 km/hr (4.5 knots (kn)) to achieve high-quality seismic reflection data. As the airguns are towed along the survey lines, the hydrophone streamer would receive the returning acoustic signals and transfer the data to the on-board processing system. If sea-ice conditions permit, a multi-channel digital streamer would be used to improve signal-to-noise ratio by digital data processing; if ice is present, a single-channel digital steamer would be employed. When not towing seismic survey gear, the RVIB *Palmer* has a maximum speed of 26.9 km/h (14.5 kn), but cruises at an average speed of 18.7 km/h (10.1 kn). During the Ross Bank survey, ~1920 km of seismic data would be collected and during the Drygalski Trough survey, ~1800 km of seismic acquisition would occur, for a total of 3720 line km.

During the Drygalski Trough survey, 2 deployments of 10 OBSs would occur along 2 different seismic refraction lines (see Fig. 1 for representative lines). Following refraction shooting of one line, OBSs on that line would be recovered, serviced, and redeployed on a subsequent refraction line. The spacing of OBSs on the initial refraction line would be 5 km apart, but OBSs could be deployed as close together as every 500 m on the subsequent refraction line. All OBSs would be recovered at the end of the survey. To retrieve the OBSs, the instrument is released via an acoustic release system to float to the surface from the wire and/or anchor, which are not retrieved.

TABLE 1—FOUR GI CONFIGURATIONS (EACH USING ONE OR TWO GI AIRGUNS) WOULD BE TESTED DURING THE SEA TRIAL

Configuration	Airgun array Total Volume (GI configuration)	Frequency between seismic shots	Streamer length
1	50 in^3 Harmonic Mode configured as 25 in^3 Generator + 25 Injector in^3.	5–10 seconds	800 m.
2	90 in^3 Harmonic Mode configured as 45 in^3 Generator + 45 Injector in^3.	5–10 seconds	
3	50 in^3 True-GI Mode configured as 45 in^3 Generator + 105 Injector in3.	5–10 seconds	
4	210 in^3 Harmonic Mode configured as 105 in^3 Generator + 105 Injector in^3.	5–10 seconds	

There could be additional seismic operations in the study area associated with equipment testing, re-acquisition due to reasons such as, but not limited to, equipment malfunction, data degradation during poor weather, or interruption due to shut down or track deviation in compliance with IHA requirements. To account for these additional seismic operations, 25 percent has been added in the form of operational days, which is equivalent to adding 25 percent to the line km to be surveyed.

Along with the airgun and OBS operations, additional acoustical data acquisition systems and other equipment may be operated during the seismic survey at any time to meet scientific objectives. The ocean floor would be mapped with a Multibeam Ecosounder (MBES), Sub-bottom Profiler (SBP), and/or Acoustic Doppler Current Profiler (ADCP). Data acquisition in the survey area will occur in water depths ranging from 150 to 700 m. Take of marine mammals is not expected to occur incidental to use of these other sources, whether or not the airguns are operating simultaneously with the other sources. Given their characteristics (*e.g.,* narrow downward-directed beam), marine mammals would experience no more than one or two brief ping exposures, if any exposure were to occur. NMFS does not expect that the use of these sources presents any reasonable potential to cause take of marine mammals.

(1) *Single Beam Echo Sounder (Knudsen 3260)*—The hull-mounted compressed high-intensity radiated pulse (CHIRP) sonar is operated at 12 kilohertz (kHz) for bottom-tracking purposes or at 3.5 kHz in the sub-bottom profiling mode. The sonar emits energy in a 30° beam from the bottom of the ship and has a sound level of 224 dB re: 1 μPa m (rms).

(2) *Multibeam Sonar (Kongsberg EM122)*—The hull-mounted, multibeam sonar operates at a frequency of 12 kHz, has an estimated maximum source energy level of 242 dB re 1μPa (rms), and emits a very narrow (< 2°) beam fore to aft and 150° in cross-track. The multibeam system emits a series of nine consecutive 15 millisecond (ms) pulses.

(3) *Acoustic Doppler Current Profiler (ADCP) (Teledyne RDI VM–150)*—The hull-mounted ADCP operates at a frequency of 150 kHz, with an estimated acoustic output level at the source of 223.6 dB re 1μPa (rms). Sound energy from the ADCP is emitted as a 30°, conically shaped beam.

(4) *ADCP (Ocean Surveyor OS–38)*—The characteristics of this backup, hull-mounted ADCP unit are similar to the Teledyne VM–150. The ADCP operates at a frequency of 150 kHz with an estimated acoustic output level at the source of 223.6 dB re 1μPa (rms). Sound energy from the ADCP is emitted as a 30° conically-shaped beam.

(5) *EK biological echo sounder (Simrad ES200–7C, ES38B, ES–120–7C)*—This echo sounder is a split-beam transducer with an estimated acoustic output level at the source of 183–185 dB re 1μPa and emits a 7° beam. It can operate at 38 kHz, 120 kHz and 200 kHz.

(6) *Acoustic Release*—To retrieve OBSs, an acoustic release transponder (pinger) is used to interrogate the instrument at a frequency of 8–11 kHz, and a response is received at a frequency of 7- 15 kHz. The burn-wire release assembly is then activated, and the instrument is released to float to the surface from the wire and/or anchor which are not retrieved.

(7) *Oceanographic Sampling*—during the Drygalski Trough study, the researchers would also conduct opportunistic oceanographic sampling as time and scheduling allows, including conductivity, temperature and depth (CTD) measurements, box cores, and/or multi-cores.

Icebreaking

Icebreaking activities are expected to be limited during the survey. The Ross Sea is generally clear of ice January through February, because of the large Ross Sea Polynya that occurs in front of the Ross Ice Shelf. Heavy ice conditions would hamper the planned activities, as noise from icebreaking degrades the quality of the geophysical data to be acquired. If the RVIB *Palmer* would find itself in heavy ice conditions, it is unlikely that the airgun(s) and streamer could be towed, as this could damage the equipment and generate noise interference. The seismic survey could take place in low ice conditions if the RVIB *Palmer* were able to generate an open path behind the vessel. The RVIB *Palmer* is not rated for breaking multi-year ice and generally avoids transiting through ice two years or older and more than one m thick. If sea ice were to be encountered during the survey, the RVIB *Palmer* would likely proceed through one-year sea ice, and new, thin ice, but would follow leads wherever possible. Any time spent icebreaking would take away time from the planned research activities, as the vessel would travel slower in ice-covered seas. Based on estimated transit to the survey area, it is estimated that the RVIB *Palmer* would break ice up to a distance of 500 km. Based on a ship speed of 5 kn under moderate ice conditions, this distance represents approximately 54 hours of icebreaking (or 2.2 days). Transit through areas of primarily open water containing brash ice or pancake ice is not considered icebreaking for the purposes of this assessment.

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS' proposal to issue an IHA to NSF was published in the **Federal Register** on September 29, 2022 (87 FR 59204). That notice described, in detail, NSF's activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization,

and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period.

NMFS received no public comments.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

The populations of marine mammals considered in this document do not occur within the U.S. Exclusive Economic Zone (EEZ) and are therefore not assigned to stocks and are not assessed in NMFS' Stock Assessment Reports (SAR). As such, information on potential biological removal (PBR; defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population) and on annual levels of serious injury and mortality from anthropogenic sources are not available for these marine mammal populations. Abundance estimates for marine mammals in the survey location are lacking; therefore estimates of abundance presented here are based on a variety of other sources including International Whaling Commission (IWC) population estimates, the International Union for Conservation of Nature's (IUCN) Red List of Threatened Species, and various literature estimates (see IHA application for further detail), as this is considered the best available information on potential abundance of marine mammals in the area.

Seventeen species of marine mammals could occur in the Ross Sea, including 5 mysticetes (baleen whales), 7 odontocetes (toothed whales) and 5 pinniped species (Table 2). Another seven species occur in the Sub-Antarctic but are unlikely to be encountered in the survey areas, as they generally occur farther to the north than the project area. These species are not discussed further here but include: the southern right whale (*Eubalaena australis*), common (dwarf) minke whale (*Balaenoptera acutorostrata*), Cuvier's beaked (*Ziphius cavirostris*), Gray's beaked (*Mesoplodon grayi*), Hector's beaked (*Mesoplodon hectori*), and spade-toothed beaked (*Mesoplodon traversii*) whales, southern right whale dolphin (*Lissodelphis peronii*), and spectacled porpoise (*Phocoena dioptrica*). Table 2 lists all species with expected potential for occurrence in the Ross Sea, Antarctica, and summarizes information related to the population, including regulatory status under the MMPA and ESA.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA EXPECTED TO BE AFFECTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock [1]	ESA/MMPA status; Strategic (Y/N) [2]	Stock abundance
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)				
Family Balaenopteridae (rorquals):				
Blue whale	*Balaenoptera musculus*	N/A	E/D;Y	10,000–25,000,[5] 1,700.[7]
Fin whale	*Balaenoptera physalus*	N/A	E/D;Y	140,000,[5] 38,200.[6]
Humpback whale	*Megaptera novaeangliae*	N/A		90,000–100,000,[5] 80,000,[10] 42,000.[11]
Antarctic minke whale [6]	*Balaenoptera bonaerensis*	N/A		Several 100,000,[5] 515,000.[9]
Sei whale	*Balaenoptera borealis*	N/A	E	70,000.[8]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)				
Family Physeteridae:				
Sperm whale	*Physeter macrocephalus*	N/A	E	360,000,[12] 12,069.[13]
Family Ziphiidae (beaked whales):				
Arnoux's beaked whale	*Berardius arnuxii*	N/A		599,300.[14]
Strap-toothed beaked whale	*Mesoplodon grayi*	N/A		599,300.[14]
Southern bottlenose whale	*Hyperoodon planifrons*	N/A		599,300.[14]
Family Delphinidae:				
Killer whale	*Orcinus orca*	N/A		50,000,[16] 25,000.[17]
Long-finned pilot whale	*Globicephala macrorhynchus*	N/A		200,000.[15]
Hourglass dolphin	*Lagenorhynchus cruciger*	NA		144,300.[15]
Family Phocidae (earless seals):				
Crabeater seal	*Lobodon carcinophaga*	N/A		5–10 million,[18] 1.7 million.[19]
Leopard seal	*Hydrurga leptonyx*	N/A		222,000–440,00.[5 20]
Southern elephant seal	*Mirounga leonina*	N/A		750,000.[23]
Ross seal	*Ommatophoca rossii*	N/A		250,000.[22]

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA EXPECTED TO BE AFFECTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock [1]	ESA/ MMPA status; Strategic (Y/N) [2]	Stock abundance
Weddell seal	*Leptonychotes weddellii*	N/A		1 million.[5 21]

N.A. = data not available.
[1] Occurrence in area at the time of the planned activities; based on professional opinion and available data.
[2] U.S. Endangered Species Act: EN = endangered, NL = not listed.
[5] Worldwide (Jefferson *et al,.* 2015).
[6] Antarctic (Aguilar and García-Vernet 2018).
[7] Antarctic (Branch *et al.,* 2007).
[8] Southern Hemisphere (Horwood 2018).
[9] Southern Hemisphere (IWC 2020).
[10] Southern Hemisphere (Clapham 2018).
[11] Antarctic feeding area (IWC 2020).
[12] Worldwide (Whitehead 2002).
[13] Antarctic south of 60°S (Whitehead 2002).
[14] All beaked whales south of the Antarctic Convergence; mostly southern bottlenose whales (Kasamatsu and Joyce 1995).
[15] Kasamatsu and Joyce (1995).
[16] Worldwide (Forney and Wade 2006).
[17] Minimum estimate for Southern Ocean (Branch and Butterworth 2001).
[18] Worldwide (Bengtson and Stewart 2018).
[19] Ross and Amundsen seas (Bengtson *et al.,* 2011).
[20] Rogers *et al.,* 2018.
[21] Hückstädt 2018a.
[22] Worldwide (Curtis *et al.,* 2011 in Hückstädt 2018b).
[23] Total world population (Hindell *et al.,* 2016).

All species that could potentially occur in the survey areas are included in Table 2. As described below, all 17 species temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized it.

A detailed description of the species likely to be affected by the geophysical surveys, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in NSF's IHA application and summarized in the **Federal Register** notice for the proposed IHA (87 FR 59204; September 29, 2022); since that time, we are not aware of any changes in the status of these species and stocks; therefore detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to the NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, etc.). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from NSF's survey activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (87 FR 59204; September 29, 2022) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from NSF on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (87 FR 59204; September 29, 2022).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform both NMFS' consideration of ''small numbers,'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

All authorized takes are by Level B harassment, involving temporary changes in behavior. No Level A harassment is expected or authorized. In the sections below, we describe methods to estimate the number of Level B harassment events. The main sources of distributional and numerical data used in deriving the estimates are summarized below.

Generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the authorized take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μPa)) for continuous (*e.g.,* vibratory pile-driving, drilling) and above RMS SPL 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

NSF's survey includes the use of impulsive seismic sources (*e.g.,* GI-airgun) and continuous icebreaking, therefore the 160 and 120 dB re 1 μPa (rms) criteria are applicable for analysis of Level B harassment.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). L–DEO's survey includes the use of impulsive and intermittent sources.

For more information, see NMFS' 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The survey would entail the use of a 2-airgun array with a total discharge of 210 in^3 at a tow depth of 1–4 m (with the worst-case scenario of 4 m assumed for purposes of modeling). L–DEO model results are used to determine the 160 dB_{rms} radius for the 2-airgun array water depth ranging from 150–700 m. Received sound levels were predicted by L–DEO's model (Diebold *et al.,* 2010) as a function of distance from the airguns, for the two 105 in^3 airguns. This modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogenous ocean layer, unbounded by a seafloor). In addition, propagation measurements of pulses from a 36-airgun array at a tow depth of 6 m have been reported in deep water (~1,600 m), intermediate water depth on the slope (~600–1,100 m), and shallow water (~50 m) in the Gulf of Mexico in 2007–2008 (Tolstoy *et al.,* 2009; Diebold *et al.,* 2010).

For deep and intermediate water cases, the field measurements cannot be used readily to derive the Level A and Level B harassment isopleths, as at those sites the calibration hydrophone was located at a roughly constant depth of 350–550 m, which may not intersect

all the SPL isopleths at their widest point from the sea surface down to the maximum relevant water depth (~2,000 m) for marine mammals. At short ranges, where the direct arrivals dominate and the effects of seafloor interactions are minimal, the data at the deep sites are suitable for comparison with modeled levels at the depth of the calibration hydrophone. At longer ranges, the comparison with the model—constructed from the maximum SPL through the entire water column at varying distances from the airgun array—is the most relevant.

In deep and intermediate water depths at short ranges, sound levels for direct arrivals recorded by the calibration hydrophone and L–DEO model results for the same array tow depth are in good alignment (see Figures 12 and 14 in Appendix H of NSF–USGS 2011). Consequently, isopleths falling within this domain can be predicted reliably by the L–DEO model, although they may be imperfectly sampled by measurements recorded at a single depth. At greater distances, the calibration data show that seafloor-reflected and sub-seafloor-refracted arrivals dominate, whereas the direct arrivals become weak and/or incoherent (see Figures 11, 12, and 16 in Appendix H of NSF–USGS 2011). Aside from local topography effects, the region around the critical distance is where the observed levels rise closest to the model curve. However, the observed sound levels are found to fall almost entirely below the model curve. Thus, analysis of the Gulf of Mexico calibration measurements demonstrates that although simple, the L–DEO model is a robust tool for conservatively estimating isopleths.

The survey would acquire data with two 105-in^3 guns at a tow depth of 1–4 m. For deep water (>1000 m), we use the deep-water radii obtained from L–DEO model results down to a maximum water depth of 2,000 m for the airgun array. The radii for intermediate water depths (100–1,000 m) are derived from the deep-water ones by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (see Figure 16 in Appendix H of NSF–USGS 2011).

L–DEO's modeling methodology is described in greater detail in NSF's IHA application. The estimated distances to the Level B harassment isopleth for the airgun configuration are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES FROM THE RVIB *Palmer* SEISMIC SOURCE TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Airgun configuration	Water depth (m)[a]	Predicted distances (m) to 160 dB received sound level
Two 105-in3 GI guns	>1,000	726[b]
	100–1,000	1,089[c]

[a] No survey effort would occur in water >1000 m; the distance for this water depth is included for informational purposes only.
[b] Distance is based on L–DEO model results.
[c] Distance is based on L–DEO model results with a 1.5 × correction factor between deep and intermediate water depths.

Table 5 presents the modeled PTS isopleths for each marine mammal hearing group based on the L–DEO modeling incorporated in the companion User Spreadsheet (NMFS 2018).

TABLE 5—MODELED RADIAL DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Hearing group	SEL cumulative PTS threshold (dB) [1]	SEL cumulative PTS distance (m) [1]	Pk PTS threshold (dB) [1]	Pk PTS distance (m) [1]
Low-frequency cetaceans	183	25.4	219	6.69
Mid-frequency cetaceans	185	0.0	230	1.50
High-frequency cetaceans	155	0.0	202	47.02
Phocid pinnipeds	185	0.3	218	7.53
Otariid pinnpeds	203	0.0	232	0.92

[1] Cumulative sound exposure level for PTS (SEL_{cum}PTS) or Peak (SPLflat) resulting in Level A harassment (*i.e.,* injury). Based on 2018 NMFS Acoustic Technical Guidance (NMFS 2018).

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L–DEO using the Nucleus software program and the NMFS User Spreadsheet, described below. The acoustic thresholds for impulsive sounds (*e.g.,* airguns) contained in the Technical Guidance were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2016a). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The SEL_{cum} for the two-GI airgun array is derived from calculating the modified farfield signature. The farfield signature is often used as a theoretical representation of the source level. To

compute the farfield signature, the source level is estimated at a large distance (right) below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, it has been recognized that the source level from the theoretical farfield signature is never physically achieved at the source when the source is an array of multiple airguns separated in space (Tolstoy *et al.,* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.,* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the interactions of the two airguns that occur near the source center and is calculated as a point source (single airgun), the modified farfield signature is a more appropriate measure of the sound source level for large arrays. For this smaller array, the modified farfield changes will be correspondingly smaller as well, but this method is used for consistency across all array sizes.

The Level B harassment estimates are based on a consideration of the number of marine mammals that could be within the area around the operating airgun array where received levels of sound ≥160 dB re 1 μParms are predicted to occur (see Table 1). The estimated numbers are based on the densities (numbers per unit area) of marine mammals expected to occur in the area in the absence of seismic surveys. To the extent that marine mammals tend to move away from seismic sources before the sound level reaches the criterion level and tend not to approach an operating airgun array, these estimates likely overestimate the numbers actually exposed to the specified level of sound.

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information, that will inform the take calculations.

For the planned survey area, NSF provided density data for marine mammal species that might be encountered in the project area. NMFS concurred that these data are the best available. Sightings data from the 2002–2003 (IWC–SOWER) Circumpolar Cruise, Area V (Ensor *et al.* 2003) were used to estimate densities for four mysticete (*i.e.,* humpback whale, Antarctic minke whale, fin whale, and blue whale) and six odontocete species (*i.e.,* sperm whale, southern bottlenose whale, strap-toothed beaked whale, killer whale, long-finned pilot whale and hourglass dolphin). Densities for sei and Arnoux's beaked whales were based on those reported in the Naval Marine Species Density Database (NMSDD) (Department of Navy 2012). NMFS finds NMSDD a reasonable representation of the lower likelihood of encountering these species, as evidenced by previous monitoring reports from projects in the same or similar area (85 FR 5619; January 31, 2020 & 80 FR 4886; January 29, 2015) and primary literature on whale species density distribution in the Antarctic (Cetacean Population Studies Vol.2, 2020). Densities of pinnipeds were estimated using best available data (Waterhouse 2001; Pinkerton and Bradford-Grieve 2010) and dividing the estimated population of pinnipeds (number of animals) by the area of the Ross Sea (300,000 km^2). Estimated densities used and Level B harassment ensonified areas to inform take estimates are presented in Table 6.

TABLE 6—MARINE MAMMAL DENSITIES AND TOTAL ENSONIFIED AREA OF ACTIVITIES IN THE SURVEY AREA

Species	Estimated density (#/km^2)	Ross Bank level B ensonified area (km^2)	Drygalski Trough level B ensonified area (km^2)	Icebreaking level B ensonified area (km^2)
Fin whale	0.0306570	5,272	4,942	8,278
Blue whale	0.0065132			
Sei whale	0.0046340			
Antarctic minke whale	0.0845595			
Humpback whale	0.0321169			
Sperm whale	0.0098821			
Southern bottlenose whale	0.0117912			
Arnoux's beaked whale	0.0134420			
Strap-toothed beaked whale	0.0044919			
Killer whale	0.0208872			
Long-finned pilot whale	0.0399777			
Hourglass dolphin	0.0189782			
Crabeater seal	0.6800000			
Leopard seal	0.0266700			
Ross seal	0.0166700			
Weddell seal	0.1066700			
Southern elephant seal	0.0001300			

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and authorized.

Seismic Surveys

In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level B harassment, the radial distance from the airgun array to the predicted isopleth corresponding to the Level B harassment threshold is calculated, as described above. The radial distance is then used to calculate the area around the airgun array predicted to be ensonified to the sound level that exceed the Level B harassment threshold. The area estimated to be

ensonified in a single day of the survey is then calculated (Table 10), based on the area predicted to be ensonified around the array and the estimated trackline distance traveled per day. The daily ensonified area was then multiplied by the number of estimated seismic acquisition days –9.6 days for the Ross Bay survey and 9 days for the Drygalski Trough survey. The product is then multiplied by 1.25 to account for the additional 25 percent contingency, as described above. This results in an estimate of the total area (km^2) expected to be ensonified to the Level B harassment threshold.

TABLE 7—AREA (km^2) TO BE ENSONIFIED TO THE LEVEL B HARASSMENT THRESHOLD

Survey area	Distance/day (km)	Threshold distance (km)	Daily ensonified area with endcap (km^2)	Number of survey days	Plus % (contingency)	Total ensonified area (km^2)
Ross Bank	200	1.089	439	9.6	12	5272
Drygalski Trough	200	1.089	439	9	11.25	4942

Based on the small Level A harassment isopleths (as shown in Table 5) and in consideration of the mitigation measures (see Mitigation section below), take by Level A harassment is not expected to occur and is not authorized.

The marine mammals predicted to occur within the respective areas, based on estimated densities (Table 6), are assumed to be incidentally taken. Estimated take, and percentages of the stocks estimated to be taken, for the survey are shown in Table 12.

Icebreaking

Applying the maximum estimated amount of icebreaking expected by NSF, *i.e.* 500 km, we calculate the total ensonified area of icebreaking (Table 8). Estimates of exposures assume that there would be approximately 2 days of icebreaking activities; the calculated takes have been increased by 25 percent (2.75 days).

TABLE 8—ENSONIFIED AREA FOR ICEBREAKING ACTIVITIES

Criteria	Distance/day (km)	Threshold distance (km)	Daily ensonified area with endcap (km^2)	Number of survey days	Plus 25% (contingency)	Total ensonified area (km^2)
120 db	223	6.456	3010	2.2	2.75	8278

Estimated take from icebreaking for the survey are shown in Table 12. As most cetaceans do not occur in pack ice, the estimates of the numbers of marine mammals potentially exposed to sounds greater than the Level B harassment threshold (120 dB re 1 μPa rms) are precautionary and probably overestimate the actual numbers of marine mammals that could be involved. No takes by Level A harassment are expected or authorized. The estimated number of takes for pinnipeds accounts for both seals that may be in the water and those hauled out on ice surfaces. Few cetaceans are expected to be seen during icebreaking activities, although some could occur along the ice margin.

TABLE 9—TOTAL MARINE MAMMAL TAKE ESTIMATED FOR THE SURVEY IN THE ROSS SEA

Species	Level B take		Total take authorized	Population abundance	Percent of population
	All Seismic	Icebreaking			
Fin whale	313	254	567	38,200	1.48
Blue whale	67	54	121	1,700	7.12
Sei whale	47	38	85	10,000	0.85
Antarctic minke whale	864	700	1,564	515,000	0.3
Humpback whale	328	266	594	42,000	1.41
Sperm whale	101	82	183	12,069	1.51
Southern bottlenose whale	120	98	218	599,300	0.04
Arnoux's beaked whale	137	111	249	599,300	0.04
Strap-toothed beaked whale	46	37	83	599,300	0.01
Killer whale	213	173	386	25,000	1.55
Long-finned pilot whale	408	331	739	200,000	0.37
Hourglass dolphin	194	157	351	144,300	0.24
Crabeater seal	6,946	5,629	12,575	1,700,000	1
Leopard seal	272	221	493	220,000	0.22
Ross seal	170	138	308	250,000	0.12
Weddell seal	1,090	883	1,973	1,000,000	0.2
Southern elephant seal	2	1	3	750,000	<0.01

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

Mitigation measures that would be adopted during the planned survey include, but are not limited to: (1) Vessel speed or course alteration, provided that doing so would not compromise operation safety requirements. (2) GI-airgun shut down within exclusion zones (EZ)s, and (3) ramp-up procedures.

Vessel-Visual Based Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual protected species observers (PSOs)) to scan the ocean surface visually for the presence of marine mammals. The area to be scanned visually includes primarily the exclusion zone, within which observation of certain marine mammals requires shutdown of the acoustic source, but also the buffer zone. The buffer zone means an area beyond the exclusion zone to be monitored for the presence of marine mammals that may enter the exclusion zone. During pre-start clearance (*i.e.,* before ramp-up begins), the buffer zone also acts as an extension of the exclusion zone in that observations of marine mammals within the buffer zone would also prevent airgun operations from beginning (*i.e.,* ramp-up). The buffer zone encompasses the area at and below the sea surface from the edge of the 100 m exclusion zone measured from the edges of the airgun array. Visual monitoring of the exclusion zone and adjacent waters is intended to establish and, when visual conditions allow, maintain zones around the sound source that are clear of marine mammals, thereby reducing or eliminating the potential for injury and minimizing the potential for more severe behavioral reactions for animals occurring closer to the vessel. Visual monitoring of the buffer zone is intended to (1) provide additional protection to naïve marine mammals that may be in the area during pre-clearance, and (2) during airgun use, aid in establishing and maintaining the exclusion zone by altering the visual observer and crew of marine mammals that are outside of, but may approach and enter, the exclusion zone.

NSF must use independent, dedicated, trained visual PSOs, meaning that the PSOs must be employed by a third-party observer provider, must not have tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements, and must have successfully completed an approved PSO training course. PSO resumes shall be provided to NMFS for approval.

At least one visual PSO must have a minimum of 90 days at-sea experience working in that role during a shallow penetration or low-energy survey, with no more than 18 months elapsed since the conclusion of the at-sea experience. One PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with the appropriate training but who have not yet gained relevant experience.

During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of one PSO must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during ramp-up of the airgun array. Visual monitoring of the exclusion and buffer zones must begin no less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSOs must coordinate to ensure 360 degree visual coverage around the vessel from the most appropriate observation posts, and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

PSOs shall establish and monitor the exclusion and buffer zones. These zones shall be based upon the radial distance from the edges of the acoustic source (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source (*i.e.,* anytime airguns are active, including ramp-up) shall be communicated to the operator to prepare for the potential shutdown of the acoustic source.

During use of the airgun, detections of marine mammals within the buffer zone (but outside the exclusion zone) should be communicated to the operator to prepare for the potential shutdown of the acoustic source. Visual PSOs will immediately communicate all observations to the on duty acoustic PSO(s), including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sightings rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

Visual PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period.

Exclusion Zone and Buffer Zone

An exclusion zone (EZ) is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcome, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs would establish a minimum EZ with a 100 m radius with an additional 100 m buffer zone (total of 200 m). The 200m zone would be based on radial distance from the edge of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within or enters this zone, the acoustic source would be shut down.

The 100 m EZ, with additional 100 m buffer zone, is intended to be precautionary in the sense that it would be expected to contain sound exceeding the injury criteria for all cetacean hearing groups, (based on the dual criteria of SEL_{cum} and peak SPL), while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 100 m EZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 100 m is regularly attainable for PSOs using the naked eye during typical conditions.

An extended 500 m exclusion zone must be established for beaked whales, large whales with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult), and an aggregation of six or more whales during all survey effort. No buffer zone is required.

Pre-Clearance and Ramp-up

Ramp-up (sometimes referred to as ''soft start'') is the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up would begin with one GI airgun 45 cu in first being activated, followed by the second after 5 minutes. The intent of pre-clearance observation (30 minutes) is to ensure no marine mammals are observed within the buffer zone prior to the beginning of ramp-up. During pre-clearance is the only time observations of marine mammals in the buffer zone would prevent operations (*i.e.,* the beginning of ramp-up). The intent of ramp-up is to warn protected species of pending seismic operations and to allow sufficient time for those animals to leave the immediate vicinity. A ramp-up procedure, involving a stepwise increase in the number of airguns are activated and the full volume is achieve, is required at all times as part of the activation of the acoustic source. All operators must adhere to the following pre-clearance and ramp-up requirements:

(1) The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow PSOs time to monitor the exclusion and buffer zones for 30 minutes prior to the initiation of ramp-up (pre-clearance);

- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated prior to reaching the designated run-in;
- One of the PSOs conducting pre-clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;
- Ramp-up may not be initiated if any marine mammal is within the applicable exclusion or buffer zone. If a marine mammal is observed within the applicable exclusion zone or the buffer zone during the 30 minutes pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small odontocetes and pinnipeds, and 30 minutes for Mysticetes and all other odontocetes, including sperm whales and beaked whales);
- PSOs must monitor the exclusion and buffer zones during ramp-up, and ramp-up must cease and the source must be shut down upon detection of a marine mammal within the applicable exclusion zone. Once ramp-up has begun, detections of marine mammals within the buffer zone do not require shutdown, but such observation shall be communicated to the operator to prepare for the potential shutdown; and

(2) If the acoustic source is shut down for brief periods (*i.e.,* less than 30 minutes) for reasons other than that described for shutdown (*e.g.,* mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant observation and no detections of marine mammals have occurred within the applicable exclusion zone. For any longer shutdown, pre-start clearance observation and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.,* BSS 4 or greater), ramp-up is required, but if the shutdown period was brief and constant observation was maintained, pre-start clearance watch is not required.

- Testing of the acoustic source involving all elements requires ramp-up. Testing limited to individual source elements does not require ramp-up but does require pre-start clearance watch.

Shutdown Procedures

The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable exclusion zone. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When the airgun array is active (*i.e.,* anytime one or more airguns is active, including during ramp-up) and (1) a marine mammal appears within or enters the applicable exclusion zone the acoustic source will be shut down. When shutdown is called for by a PSO, the acoustic source will be immediately deactivated and any dispute resolved only following deactivation.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the EZ. The animal would be considered to have cleared the EZ if it is visually observed to have departed the EZ, or it has not been seen within the EZ for 15 minutes in the case of small odontocetes and pinnipeds, and 30 minutes for Mysticetes and all other odontocetes, including sperm and beaked whales, with no further observation of the marine mammal(s).

Upon implementation of shutdown, the source may be reactivated after the marine mammal(s) has been observed exiting the applicable exclusion zone (*i.e.,* animal is not required to fully exit the buffer zone where applicable) or following a clearance period (15 minutes for small odontocetes and pinnipeds, and 30 minutes for mysticetes and all other odontocetes, including sperm whales, beaked whales, pilot whales, killer whales, and Risso's dolphin) with no further observation of the marine mammal(s).

NSF must implement shutdown if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the takes have been met, approaches the Level B harassment zones.

Vessel Strike Avoidance Measures

These measures apply to all vessels associated with the planned survey activity; however, we note that these requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. These measures include the following:

(1) Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should be exercised when an animal is observed. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (specific distances detailed below), to ensure the potential for strike is minimized. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena and broadly to identify a marine mammal to broad taxonomic group (*i.e.,* as a large whale or other marine mammal);

(2) Vessel speeds must be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of any marine mammal are observed near a vessel;

(3) All vessels must maintain a minimum separation distance of 100 m from large whales (*i.e.,* sperm whales and all mysticetes);

(4) All vessels must attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for those animals that approach the vessel; and

(5) When marine mammals are sighted while a vessel is underway, the vessel should take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel should reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This recommendation does not apply to any vessel towing gear.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations. During seismic operations, at least three visual PSO would be based aboard the *Palmer,* with a minimum of one on duty at all times during daylight hours. NMFS' typical requirements for surveys of this type include a minimum of two PSOs on duty at all times during daylight hours. However, NSF stated in communications with NMFS that the requirement is not practicable in this circumstance due to the remote location of the survey and associated logistical issues, including limited capacity to fly PSOs into and out of McMurdo Station in Antarctica and limited berth space on the *Palmer,* and requested an exception to the requirement. NMFS agrees that, in this circumstance, the requirement to have a minimum of two PSOs on duty during all daylight hours would be impracticable and, therefore, a minimum of one PSO must be on duty. NSF must employ two PSOs on duty during all daylight hours to the maximum extent practicable. NSF Monitoring shall be conducted in accordance with the following requirements:

(1) PSOs shall be independent, dedicated and trained and must be employed by a third-party observer provider;

(2) The operator must work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals. Such equipment, at a minimum, must include:

- Reticle binoculars (*e.g.,* 7 x 50) of appropriate quality (at least one per PSO, plus backups).
- Global Positioning Unit (GPS) (plus backup).
- Digital single-lens reflex cameras of appropriate quality that capture photographs and video (plus backup).
- Compass (plus backup)
- Radios for communication among vessel crew and PSOs (at least one per PSO, plus backups).
- Any other tools necessary to adequately perform necessary PSO tasks.

(3) PSOs shall have no tasks other than to conduct visual observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected

species and mitigation requirements (including brief alerts regarding maritime hazards);

(4) PSOs shall have successfully completed an approved PSO training course appropriate for their designated task (visual or acoustic);

(5) NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.,* experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course;

(6) NMFS shall have one week to approve PSOs from the time that the necessary information is submitted, after which PSOs meeting the minimum requirements shall automatically be considered approved;

(7) PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program;

(8) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics; and

(9) The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within one week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to:

- secondary education and/or experience comparable to PSO duties;
- previous work experience conducting academic, commercial, or government-sponsored protected species surveys; or
- previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

PSOs must use standardized data collection forms, whether hard copy or electronic. PSOs must record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel name and call sign;
- PSO names and affiliations;
- Date and participants of PSO briefings (as discussed in General Requirement);
- Dates of departure and return to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, *etc.*).

The following information should be recorded upon visual observation of any marine mammal:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach (CPA) and/or closest distance from any element of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up) and time and location of the action.

Reporting

NSF must submit a draft comprehensive report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that occurred above the harassment threshold based on PSO observations and including an estimate of those that were not detected, in consideration of both the characteristics and behaviors of the species of marine mammals that affect detectability, as well as the environmental factors that affect detectability.

The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). Geographic

Information System (GIS) files shall be provided in Environmental Systems Research Institute (ESRI) shapefile format and include the Coordinated Universal Time (UTC) date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as described above and in the IHA. A final report must be submitted within 30 days following resolution of any comments on the draft report.

Reporting Injured or Dead Marine Mammals

Discovery of injured or dead marine mammals—In the event that personnel involved in survey activities covered by the authorization discover an injured or dead marine mammal, the NSF shall report the incident to the Office of Protected Resources (OPR), NMFS as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Vessel strike—In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, L–DEO shall report the incident to Office of Protected Resources (OPR), NMFS and to the NMFS West Coast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measure were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Species identification (if known) or description of the animal(s) involved;
- Estimated size and length of the animal that was struck;
- Description of the behavior of the animal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals present immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all the species listed in Table 6, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar, except where a species- or stock-specific discussion is warranted. NMFS does not anticipate that serious injury or mortality would occur as a result from low-energy survey, even in the absence of mitigation, and no serious injury or mortality is authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential take would be in the form of Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), responses that are considered to be of low severity, and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007, 2021). These low-level impacts of behavioral harassment are not likely to impact the overall fitness of any individual or lead to population level effects of any species. As described above, Level A harassment is not expected to occur given the estimated small size of the Level A harassment zones.

In addition to being temporary, the maximum expected Level B harassment zone around the survey vessel is 1,089 m (and as much a 6,456 m for icebreaking activities). Therefore, the ensonified area surrounding the vessel is relatively small compared to the overall distribution of animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the short duration (19 days) and temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

NMFS does not anticipate that serious injury or mortality would occur as a result of NSF's seismic survey, even in the absence of mitigation. Thus, the authorization does not authorize any serious injury or mortality. As discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

No takes by Level A harassment are authorized. The 100-m EZ encompasses the Level A harassment isopleths for all marine mammal hearing groups, and is expected to prevent animals from being exposed to sound levels that would cause PTS. Also, as described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the RVIB *Palmer's* approach due to the vessel's relatively low speed when conducting seismic survey. We expect that any instances of take would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Potential impacts to marine mammal habitat were discussed previously in this document (see Potential Effects of Specified Activities on Marine Mammals and their Habitat). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Feeding behavior is not likely to be significantly impacted, as marine mammals appear to be less likely to exhibit behavioral reactions or avoidance responses while engaged in feeding activities (Richardson *et al.,* 1995). Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. In addition, there are no feeding, mating or calving areas known to be biologically important to marine mammals within the project area.

As explained above in the Description of Marine Mammals in the Area of Specified Activities section, marine mammals in the survey area are not assigned to NMFS stocks. Therefore, we rely on the best available information on the abundance estimates for the species of marine mammals that could be taken. The activity is expected to impact a very small percentage of all marine mammal populations that would be affected by NSF's survey (approximately three percent or less each for all marine mammal populations where abundance estimates exist). Additionally, the acoustic ''footprint'' of the survey would be very small relative to the ranges of all marine mammal species that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the survey area. The seismic array would be active 24 hours per day throughout the duration of the survey. However, the very brief overall duration of the survey (19 days) would further limit potential impacts that may occur as a result of the activity.

The mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual observers, and by minimizing the severity of any potential exposures via ramp-ups and shutdowns of the airgun array.

Of the marine mammal species that are likely to occur in the project area, the following species are listed as endangered under the ESA: blue, fin, sei, and sperm whales. We are proposing to authorize very small numbers of takes for these species (Table 11 and Table 13), relative to their population sizes (again, for species where population abundance estimates exist), therefore we do not expect population-level impacts to any of these species. The other marine mammal species that may be taken by harassment during NSF's seismic survey are not listed as threatened or endangered under the ESA. There is no designated critical habitat for any ESA-listed marine mammals within the project area.

NMFS concludes that exposures of marine mammals due to NSF's planned seismic survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Marine mammals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the take estimates to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

(1) No mortality, serious injury or Level A harassment is anticipated or authorized;

(2) The anticipated impacts of the activity on marine mammals would primarily be temporary behavioral changes of small percentages of the affected species due to avoidance of the area around the survey vessel. The relatively short duration of the survey (19 days) would further limit the potential impacts of any temporary behavioral changes that would occur;

(3) The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the survey to avoid exposure to sounds from the activity;

(4) The potential adverse effects of the survey on fish or invertebrate species that serve as prey species for marine mammals would be temporary and spatially limited; and

(5) The mitigation measures, including visual monitoring, ramp-ups, and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity would have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS authorizes is below one third of the estimated stock abundance for all species (in fact, take of individuals is less than ten percent of the abundance of the affected stocks, see Table 6). This is likely a conservative

estimate because we assume all takes are of different individual animals, which is likely not the case. Some individuals may be encountered multiple times in a day, but PSOs would count them as separate individuals if they cannot be identified.

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we authorize take for endangered or threatened species, in this case with the ESA Interagency Cooperation Division within NMFS' OPR.

The NMFS Office of Protected Resources (OPR) ESA Interagency Cooperation Division issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to NSF under section 101(a)(5)(D) of the MMPA by the NMFS OPR Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of ESA-listed blue whales, fin whales, sei whales, and sperm whales. There is no designated critical habitat in the action area for any ESA-listed marine mammal species.

Authorization

As a result of these determinations, NMFS has issued an IHA to NSF for conducting seismic survey and icebreaking in the Ross Sea, in January through February 2023, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The IHA can be found at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-national-science-foundation-office-polar-programs-geophysical.*

Dated: December 14, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–27498 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2022–0002]

Extension of Period To Allow Submission of a PDF With a Patent Application Filed in DOCX Format

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is continuing to modernize and streamline its patent application systems to support robust and reliable patent rights, speed the issuance of patents, and reduce the costs and barriers of global patent protection. The submission of patent applications in DOCX format facilitates the USPTO's ongoing efforts. The USPTO recognizes that, during the transition, some applicants have been hesitant to file patent applications in DOCX format. On April 28, 2022, the USPTO announced that, for a temporary period, ending on December 31, 2022, it was providing patent applicants with the option to submit an applicant-generated PDF version of the application along with the DOCX file(s) when filing an application in Patent Center. Based on stakeholder requests, the USPTO is extending the temporary period during which patent applicants have the option to submit an applicant-generated PDF of the application along with the validated DOCX file(s) when filing an application in Patent Center through June 30, 2023. To encourage greater adoption of DOCX so that the USPTO can move forward with its other modernization and harmonization efforts, there is no change to the January 1, 2023, effective date of the non-DOCX filing surcharge fee.

DATES: *Duration:* The option to submit an applicant-generated PDF of a patent application along with the DOCX file(s) when filing an application in Patent Center, as discussed in this notice, will be available through June 30, 2023.

Fee applicability: The non-DOCX filing surcharge fee set forth in 37 CFR 1.16(u) will go into effect on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Mark O. Polutta, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7709; or Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7727.

For technical questions about submitting documents in DOCX format, please contact the Patent Electronic Business Center (EBC) at 1–877–217–9197 (toll-free), 571–272–4100 (local), or *ebc@uspto.gov.* The EBC is open from 6 a.m. to midnight ET, Monday–Friday.

SUPPLEMENTARY INFORMATION: Filing in DOCX format eliminates the need for patent applicants to convert structured text to PDF format, improves patent application quality by providing content-based validations prior to submission, provides automated document indexing, allows for future reuse of content, and improves searching for patent applications. It is also necessary for planned, upcoming USPTO efforts to automate more of the patent application process, including through pre-examination of applications to put applications in better shape before they are examined by a patent examiner. It is also critical to reducing barriers and costs affiliated with global intellectual property (IP) protection by ensuring that the different IP systems can communicate, electronically, with one another.

The USPTO appreciates the feedback and support from its stakeholders, including those who have switched to

filing patent applications in DOCX format. The feedback from stakeholders during this transition to a DOCX system has been extremely helpful to the USPTO in improving its systems. The USPTO is no longer seeing any errors being reported as a result of filing patent applications in DOCX format when applicants follow the guidance provided by the USPTO.

The USPTO recognizes that, during the transition, some applicants have been hesitant to file patent applications in DOCX format for fear that certain technical information including formulas might not be accurately reflected in the DOCX version. Accordingly, in April 2022, the USPTO announced that, for a period of time ending December 31, 2022, it was providing patent applicants with the option to submit a back-up applicant-generated PDF version of the application along with the DOCX file(s) when filing an application in Patent Center. *See* Filing Patent Applications in DOCX Format, 87 FR 25226 (Apr. 28, 2022). The USPTO believed that the initial period would encourage applicants to file in DOCX while ensuring that if any discrepancies were discovered, the back-up version could be used to correct the discrepancies. As with the DOCX version of the application, the applicant-generated PDF version also becomes part of the official record.

The USPTO expresses its gratitude to those who have used DOCX during this period and have reported any discrepancies. That effort allowed the USPTO to engage in enhanced testing of its information technology systems, and improve its guidance, as more users filed in DOCX. Even though the USPTO is no longer receiving discrepancy reports from those who file in DOCX following the USPTO's guidance, based on stakeholder requests, the USPTO is extending the temporary period to submit applicant-generated PDFs through June 30, 2023.

The USPTO reminds applicants that the option to submit an applicant-generated PDF version of the application is not available for applications filed via EFS-Web. The agency anticipates that more applicants will begin filing applications in DOCX format once the non-DOCX filing surcharge fee becomes effective on January 1, 2023. Nevertheless, extending the temporary period during which patent applicants have the option to submit an applicant-generated PDF of the application along with the validated DOCX file(s) through June 30, 2023, will provide applicants additional time to gain confidence in the reliability and accuracy of the USPTO system when filing applications in DOCX format and safeguard the applicant should any conversion discrepancies take place. Applicants are also reminded that they can file test submissions through Patent Center training mode to practice filing in DOCX. Information on filing application documents in DOCX and a link to the DOCX training sessions are available at *www.uspto.gov/patents/docx.*

As discussed in the notice published on April 28, 2022, patent applicants who choose to submit an applicant-generated PDF with the validated DOCX file(s) when filing an application in Patent Center during the temporary period will not have to pay additional fees, such as an application size fee, as a result of filing the applicant-generated PDF, and, on petition, will be able to rely on the applicant-generated PDF if a discrepancy occurs during the filing process. To avoid incurring additional fees for the PDF, applicants must follow the process for submitting an applicant-generated PDF (Auxiliary PDF) set forth in the quick reference guide available at *www.uspto.gov/sites/default/files/documents/Aux_PDF_QRG_Final_2022.docx.* The USPTO will continue to waive the petition fee under 37 CFR 1.17(f) for a petition under 37 CFR 1.182 that relies on an applicant-generated PDF that was filed in Patent Center during the temporary period as the source to make a correction to the record. The USPTO will include the applicant-generated PDF in any certified copy of the application as filed, if the applicant-generated PDF remains part of the official record when applicant's request is processed. After the expiration of the temporary period (June 30, 2023), patent applicants who submit an applicant-generated PDF with the validated DOCX file(s) will need to pay the non-DOCX filing surcharge fee and any other additional fees, such as an application size fee, as a result of filing the applicant-generated PDF.

As a reminder, the USPTO published a final rule in the **Federal Register** that included a new non-DOCX filing surcharge fee, set forth in 37 CFR 1.16(u), with an effective date of January 1, 2022. *See* Setting and Adjusting Patent Fees During Fiscal Year 2020, 85 FR 46932 (Aug. 3, 2020). The USPTO later announced it was delaying the effective date of this fee until January 1, 2023. *See* Setting and Adjusting Patent Fees During Fiscal Year 2020, 86 FR 66192 (Nov. 22, 2021). The effective date of the non-DOCX filing surcharge fee now set forth in 37 CFR 1.16(u) is not being delayed. The non-DOCX filing surcharge fee, which applies only to non-reissue (original), nonprovisional utility applications filed under 35 U.S.C. 111, including continuing applications, will become effective on January 1, 2023. Small and micro-entity discounts will apply.

For more information regarding the filing of an applicant-generated PDF in Patent Center, including the options available for making corrections to the record, please see Filing Patent Applications in DOCX Format, 87 FR 25226 (Apr. 28, 2022).

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–27366 Filed 12–19–22; 8:45 am]

BILLING CODE 3510–16–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 1:30 p.m.–3 p.m., January 5, 2023.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004.

STATUS: Closed. During the closed meeting, the Board Members will discuss issues dealing with potential Recommendations to the Secretary of Energy. The Board is invoking the exemption to close a meeting described in 5 U.S.C. 552b(c)(3) and 10 CFR 1704.4(c). The Board has determined that it is necessary to close the meeting since conducting an open meeting is likely to disclose matters that are specifically exempted from disclosure by statute. In this case, the deliberations will pertain to potential Board Recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively.

MATTERS TO BE CONSIDERED: The meeting will proceed in accordance with the closed meeting agenda which is posted on the Board's public website at *www.dnfsb.gov.* Technical staff may present information to the Board. The Board Members are expected to conduct deliberations regarding potential Recommendations to the Secretary of Energy.

CONTACT PERSON FOR MORE INFORMATION: Tara Tadlock, Associate Director for Board Operations, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: December 15, 2022.

Joyce Connery,

Chair.

[FR Doc. 2022–27643 Filed 12–16–22; 11:15 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0154]

Agency Information Collection Activities; Comment Request; William D. Ford Federal Direct Loan Program Repayment Plan Selection Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 21, 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–0154. 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 Beth Grebeldinger, (202) 377–4018.

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: William D. Ford Federal Direct Loan Program Repayment Plan Selection Form.

OMB Control Number: 1845–0014.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals or households. *Total Estimated Number of Annual Responses:* 660,000.

Total Estimated Number of Annual Burden Hours: 110,220.

Abstract: This is a request for an extension without change to the current respondent/response/burden hour assessment in OMB Control Number 1845–0014—Repayment Plan Request: Standard Repayment Plan/Extended Repayment Plan/Graduated Repayment Plan—William D. Ford Federal Direct Loan (Direct Loan) Program. The Department files this request with the same total annual number of respondents for this renewal collection used in the prior filing. Due to the effects of the COVID–19 pandemic and the suspension of the collection of loans, the Department lacks sufficient data to allow for more accurate updates to the usage of these forms.

Dated: December 15, 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. 2022–27560 Filed 12–19–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0127]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State and Local Educational Agency Record and Reporting Requirements Under Part B of the Individuals With Disabilities Education Act

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 19, 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 Diana Yu, 202–245–6061.

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: State and Local Educational Agency Record and Reporting Requirements under Part B of the Individuals with Disabilities Education Act.

OMB Control Number: 1820–0600.

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: 75,476.

Total Estimated Number of Annual Burden Hours: 362,649.

Abstract: OMB Information Collection 1820–0600 reflects the provisions in the Act and the Part B regulations requiring States and/or local educational agencies (LEAs) to collect and maintain information or data and, in some cases, report information or data to other public agencies or to the public. However, such information or data are not reported to the Secretary. Data are collected in the areas of private schools, parentally placed private school students, State high cost fund, notification of free and low cost legal services, early intervening services, notification of hearing officers and mediators, State complaint procedures, and the LEA application under Part B.

Dated: December 14, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–27496 Filed 12–19–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals with Disabilities Program—Stepping-up Technology Implementation

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 Stepping-up Technology Implementation, Assistance Listing Number 84.327S. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: December 20, 2022.

Deadline for Transmittal of Applications: March 6, 2023.

Deadline for Intergovernmental Review: May 4, 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 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]

Priorities: This competition includes one absolute priority and one competitive preference priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from allowable activities specified in sections 674(b)(2) and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1474(b)(2) and 1481(d). The competitive preference priority is from the Secretary's Administrative Priorities for Discretionary Grant Programs published in the **Federal Register** on March 9, 2020 (85 FR 13640) (Administrative Priorities).

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:

Supporting Early Childhood or K–12 Educators to Deliver Literacy Instruction Based on the Science of Reading to English Learners (ELs) with, and At Risk for, Disabilities.

Background: Between 2012 and 2020, the number of school-age students with disabilities that were ELs in the U.S. grew by close to 30 percent.[2] In the fall of 2019, there were 792,000 ELs identified as students with disabilities, representing 15.5 percent of the total national EL enrollment (U.S. Department of Education, 2020). Data has consistently shown gaps in academic outcomes for ELs when compared to their non-EL peers, particularly in reading (Mancilla-Martinez, 2020). These gaps in reading outcomes are even more apparent for ELs with disabilities. For example, a greater proportion of ELs with disabilities (4th grade: 89 percent; 8th grade: 88 percent) scored below the basic level on the 2022 National

[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.

[2] Please see *https://sites.ed.gov/idea/osep-fast-facts-students-with-disabilities-english-learners.*

Assessment of Educational Progress (NAEP) in reading, compared to all students with disabilities who scored below the basic level (4th grade: 67 percent; 8th grade: 61 percent) or ELs without disabilities who scored below the basic level (4th grade: 63 percent; 8th grade: 64 percent) (U.S. Department of Education, 2022). This reading achievement gap for ELs has remained static for over a decade. Given EL reading outcomes, providing supports to improve literacy skills is a pressing educational necessity that will increase equity in educational opportunity (Mancilla-Martinez, 2020).

Many educators report using some type of digital learning resource or technologies to provide instruction on a daily or weekly basis to ELs (U.S. Department of Education, 2019). Improving the capacity of educators to use the most appropriate and effective technologies in their delivery of literacy instruction that meet their students' needs is important for improving literacy outcomes. Technology that provides a range of support features (*e.g.,* visual, auditory), in multiple languages, is viewed by educators as critical for supporting ELs' learning of content and building language and literacy skills. Educators are also interested in how technologies can be used to individualize and adapt literacy instruction based on the student's individual needs while considering a student's level of English language proficiency.

Technology alone cannot be effective without the necessary professional learning and coaching to support educators on how to use the technology appropriately and with fidelity. Professional learning should focus on (1) how technology can improve literacy instruction; (2) how to effectively use the technology; (3) supporting meaningful collaborative learning opportunities with educators (*e.g.,* EL teachers, special education teachers, reading teachers, general education teachers) and students; (4) aligning the technology enhanced instruction with existing curricula, State standards, and school initiatives; (5) promoting student motivation and engagement in language learning; and (6) using effective engagement strategies to improve parent/family-teacher partnerships in the use of technology to improve literacy outcomes for ELs (*e.g.,* recognizing multilingualism and multiculturalism as an asset) (Grant et al., 2017).

Priority: The purpose of this priority is to fund three cooperative agreements to establish and operate projects that achieve, at a minimum, the following expected outcomes:

(a) Improved literacy instruction based on the science of reading for ELs with, and at risk for, disabilities through proven strategies that effectively integrate an existing accessible technology-based tool or approach, that is based on at least promising evidence; [3]

(b) Increased educators' [4] use and knowledge of technology to deliver effective literacy instruction based on the science of reading for ELs with, or at risk for, disabilities through professional learning and coaching;

(c) Increased educator collaboration and professional learning opportunities to use technology to improve literacy outcomes of ELs with, and at risk for, disabilities and to engage families to support their child's learning in the classroom and at home;

(d) Improved engagement in literacy instruction and self-regulated learning opportunities leading to improved reading achievement for ELs with, and at risk for, disabilities;

(e) Improved alignment of technology-enhanced instruction with existing curricula, State standards, and school initiatives; and

(f) Improved parent/family-teacher partnerships to use technology in improving literacy outcomes for ELs by using effective engagement strategies (*e.g.,* recognizing multilingualism and multiculturalism as an asset).

To be considered for funding under this priority, in the application, applicants must describe how they will—

(a) Build partnerships with early childhood programs or local educational agencies (LEAs) to support educators in the understanding, use, and delivery of a technology-based tool or approach [5] to deliver literacy instruction based on the science of reading for ELs with, and at risk for, disabilities in pre-kindergarten (PK), elementary, middle, or high school instructional settings;

Note: Applicants may propose to support educators who serve ELs in a single grade or in a specific range of ages or grades (*e.g.,* PK-kindergarten, grades 1–3, grades 4–6, middle, or high School).

(b) Increase the capacity of educators to effectively use and deliver a technology-based tool or approach that supports literacy development for ELs with, and at risk for, disabilities in PK, elementary, middle, or high school instructional settings for instruction and professional growth;

(c) Develop an implementation package of accessible products and resources that will help educators and families to effectively use a technology-based tool or approach to improve literacy outcomes; and

(d) Evaluate whether the technology-based tool or approach meets the project goals and targeted outcomes.

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 address the need for a technology-based tool or approach and identify specific gaps and challenges, infrastructure, or opportunities to support educators' development. To meet this requirement the applicant must—

(1) Identify a fully developed technology-based tool or approach that is based on at least promising evidence;

(2) Identify how the technology-based tool or approach will improve educators' pedagogy and their capacity to deliver literacy instruction based on the science of reading for ELs with, and at risk for, disabilities in PK, elementary, middle, or high school instructional settings, including classrooms or remote learning environments;

(3) Present applicable national, State, regional, or local data demonstrating the need for the identified technology-based tool or approach to support ELs with,

[3] 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: (a) a practice guide prepared by the What Works Clearinghouse (WWC) reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice recommendation; (b) 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 (c) a single study assessed by the Department, as appropriate, that 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 includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome. See 34 CFR 77.1 for definitions of ''promising evidence,'' ''experimental study,'' ''moderate evidence,'' ''quasi-experimental design study,'' ''relevant outcome,'' and ''strong evidence.''

[4] For the purpose of this priority, ''educators'' include teachers, early childhood providers, administrators, paraprofessionals, and speech-language pathologists.

[5] ''Technology-based tool or approach'' refers to the technology the applicant is proposing that is supported, at a minimum, by ''promising evidence'' with the population intended.

and at risk for, disabilities in PK, elementary, middle, or high school instructional settings, including classrooms or remote learning environments;

(4) Identify current policies, procedures, and practices used by educators that effectively incorporate technology-based tools or approaches to support literacy outcomes for ELs with, and at risk for, disabilities;

(5) Identify systemic barriers, gaps, or challenges, including challenges to using the identified technology-based tool or approach; and

(6) Describe the potential impact of the identified technology-based tool or approach on educators, families, and ELs with, and at risk for, disabilities.

(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 ongoing professional learning and coaching supports; and

(ii) Ensure that products and resources 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 measurable intended project outcomes;

(3) Be based on current research. To meet this requirement, the applicant must—

(i) Describe how the proposed project will align with current research, policies, and practices related to the benefits, services, or opportunities that are available using the technology-based tool or approach;

(ii) Describe how the proposed project will incorporate current and evidence-based research and practices to guide the development and delivery of its products and resources, including accessibility and usability; and

(iii) Document that the technology tool used by the project is fully developed, has been tested and shown to have promising evidence, and addresses, at a minimum, the following principles of universal design for learning (UDL):

(A) Multiple means of presentation so that information can be delivered in more than one way (*e.g.,* specialized software and websites, screen readers that include features such as text-to-speech, changeable color contrast, alterable text size, or selection of different reading levels);

(B) Multiple means of expression that allow knowledge to be exhibited through options (*e.g.,* writing, online concept mapping, or speech-to-text programs, where appropriate); and

(C) Multiple means of engagement to stimulate interest in and motivation for learning (*e.g.,* individual or group learning experiences or activities, learner choice); and

(4) Develop new products and resources 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—

(i) Provide a plan for recruiting and selecting sites with at least 10 percent concentration of ELs and where ELs with, and at risk for, disabilities are served, which must include the following:

(A) Three development sites.[6] Development sites are the sites in which iterative development of the products and resources intended to support the implementation of the technology-based tool or approach will occur. The project must start implementing the technology tool with one development site in year one of the project period and two additional development sites in year two.

(B) Four pilot sites. Pilot sites are the sites in which try-out, formative evaluation, and refinement of the products and resources will occur. The project must work with the four pilot sites during years three and four of the project period.

(C) Ten dissemination sites. Dissemination/scale-up sites will be selected if the project is extended for a fifth year. Dissemination/scale-up sites will be used to (1) refine the products for use by educators and students, and (2) evaluate the performance of the technology tool on educators' pedagogy and students' reading outcomes. Dissemination/scale-up sites will receive less implementation support from the project than development and pilot sites. Also, dissemination/scale-up sites will extend the benefits of the technology tool to additional students. To be selected as a dissemination/scale-up site, eligible sites must commit to working with the project to implement the technology tool or approach.

Note: The following website provides more information about implementation research: *https://nirn.fpg.unc.edu/national-implementation-research-network.*

(D) A site may not serve in more than one category (*i.e.,* development, pilot, dissemination/scale-up).

(E) Two of the seven development and pilot sites must have medium concentrations of ELs (10–19 percent of total site enrollment), five of the seven development and pilot sites must include high concentrations of ELs (20 percent or more of total site enrollment). A minimum of seven of the 10 dissemination/scale-up sites must be in districts with a high concentration of ELs.

(ii) Provide a description of the expected student demographics and other pertinent data (*e.g.,* whether the settings are schools identified for comprehensive or targeted support and improvement in accordance with section 1111(c)(4)(C)(iii), (c)(4)(D), or (d)(2)(C)–(D) of the Elementary and Secondary Education Act of 1965, as amended) on the sites the project proposes to target;

(iii) Provide a plan for dissemination, which must address how the project will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the project's products and resources that goes beyond conference presentations and research articles;

(iv) Provide its plan for how the project will sustain project activities that go beyond conference presentations and research articles after funding ends; and

(v) Provide assurances that the final products disseminated to help sites effectively implement the technology-based tool or approach will be both open educational resources (OER) and licensed through an open access licensing authority.

(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 resources have met the goals for reaching the project's target population; measures of intended outcomes or results of the project's activities to evaluate those activities; and how the project will assess whether the goals or objectives of the proposed project, as described in its logic model (as defined in 34 CFR 77.1), have been met.

[6] For this priority, a ''site'' is a public school building or an ''early childhood education program,'' as defined under the Higher Education Act, within the local educational agency (LEA) (Pub. L. 110–315, title VIII, section 801, Aug. 14, 2008, 122 Stat. 3398).

In designing the evaluation plan, the applicant must—

(1) Provide a logic model or conceptual framework that depicts, at a minimum, the goals, activities, project evaluation, methods, performance measures, outputs, and outcomes of the proposed project;

(2) Provide a plan to implement the activities described in this priority;

(3) Provide a plan, linked to the proposed project's logic model or conceptual framework, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and resources;

(4) Describe a plan or method for assessing—

(i) The development and pilot sites' current educator training use and needs, any current technology investments, and the knowledge and availability of dedicated on-site technology training personnel;

(ii) The readiness of development and pilot sites to pilot or try-out the technology-based tool or approach, including, at a minimum, their current infrastructure, available resources, and ability to build capacity;

(iii) Whether the technology-based tool or approach has achieved its intended outcomes for PK, elementary, middle, or high school educators, families, and EL students with, and at risk for, disabilities; and

(iv) The ongoing professional learning needs of educators to implement with fidelity;

(5) Collect formative and summative data from the professional learning to refine and evaluate the products;

(6) If the project is extended to a fifth year—

(i) Provide the implementation package of products and resources developed for the technology-based tool or approach to no fewer than 10 additional school sites in year five; and

(ii) Collect summative data about the success of the project's products and resources in supporting implementation of the technology-based tool or approach for educators and families of ELs with, and at risk for, disabilities; and

(7) By the end of the project period, provide—

(i) Information on the products and resources, as supported by the project evaluation, including accessibility features, that will enable other sites to implement and sustain implementation of the technology-based tool or approach;

(ii) Information in the project's final performance report, including implementation data on how intended users (*e.g.,* educators, families, and students) utilized the technology-based tool or approach, how the technology-based tool or approach was implemented with fidelity, and how effective the technology-based tool or approach was in improving reading outcomes for ELs with, and at risk for, disabilities;

(iii) Data on how the technology-based tool or approach changed educators' practices; and

(iv) A plan for disseminating or scaling up the technology-based tool or approach and accompanying products beyond the sites directly involved in the project.

(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 resources 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, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must include—

(1) In appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) In appendix A, the logic model or conceptual framework by which the proposed project will develop project plans and activities and achieve its intended outcomes. The logic model or conceptual framework must include a description of 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 and depict, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project.

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;* and

(3) 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 Office of Special Education Programs (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) Two annual two-day trips, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

(iv) A one-day intensive, virtual OSEP review meeting during the last half of the second year of the project period.

Cohort Collaboration and Support

OSEP project officers will provide coordination support among the projects. Each project funded under this priority must—

(a) Participate in monthly conference-call discussions to collaborate on implementation and project issues; and

(b) Provide annual information to OSEP using a template that captures descriptive data on project site selection and the processes for implementation and use of the technology-based tool or approach.

Fifth Year of Project

The Secretary may extend a project one year beyond the initial 48 months to work with dissemination/scale-up sites if the grantee is substantially achieving the intended outcomes of the project (as demonstrated by data gathered as part of the project evaluation) and making a positive contribution to the implementation of a technology-based tool or approach based on at least promising evidence in the development and pilot sites. Each applicant must include in its application a plan for the full 60-month period. In deciding whether to continue funding the project for the fifth year, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a review team consisting of the OSEP project officer and other experts who have experience and knowledge in technology implementation for personnel serving children with disabilities. This review 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 degree to which the project's activities have changed practices and improved literacy outcomes for educators, and ELs with, and at risk for, disabilities.

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.

Competitive Preference Priority: For FY 2023, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional three points to an application that meets the competitive preference priority. Applicants should indicate in the abstract if the competitive preference priority is addressed and must address the competitive preference priority in the narrative section.

This priority is:

Applications from New Potential Grantees (0 or 3 points).

(a) Under this priority, an applicant must demonstrate that the applicant has not had an active discretionary grant under the 84.327S program from which it seeks funds, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the five years before the deadline date for submission of applications under the program.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant's or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

References

Grant, L., Bell, A.B., Yoo, M., Jimenez, C., & Frye, B. (2017). Professional development for educators to promote literacy development of English learners: Valuing home connections. *Reading Horizons: A Journal of Literacy and Language Arts, 56*(4). *https://scholarworks.wmich.edu/reading_horizons/vol56/iss4/2.*

Mancilla-Martinez, J. (2020). Understanding and supporting literacy development among English learners: A deep dive into the role of language comprehension. *AERA Open. https://doi.org/10.1177/2332858420912198.*

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U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service. (2019). *Supporting English learners through technology: What districts and teachers say about digital learning resources for English learners. Volume I: Final Report.* National Study of English Learners and Digital Learning Resources. *https://www2.ed.gov/rschstat/eval/title-iii/180414.pdf.*

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 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 Administrative Priorities.

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: Cooperative agreements.

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 $1,500,000 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 2023 from the list of unfunded applications from this competition.

Estimated Range of Awards: $450,000 to $500,000 per year.

Estimated Average Size of Awards: $475,000 per year.

Maximum Award: We will not make an award exceeding $2,500,000 for the 60-month project period.

Estimated Number of Awards: 3.

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 50 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 (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 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;

(iii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies; 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 reflect up-to-date knowledge from research and effective practice;

(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 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 services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services; and

(v) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(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 evaluation plan clearly articulates the key project components, mediators, and outcomes, as well as a measurable threshold for acceptable implementation.

(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).

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. 2022–27486 Filed 12–19–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0128]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Independent Living Services for Older Individuals Who Are Blind Annual Report (7–OB)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before January 19, 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 Nicole Jeffords, 202–245–6387.

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: Independent Living Services for Older Individuals Who Are Blind Annual Report (7–OB).

OMB Control Number: 1820–0608.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 280.

Abstract: RSA uses this form to meet the specific data collection requirements of Section 752 of the Rehabilitation Act, as amended by the Workforce Innovation Act (WIOA) and implementing regulations at 34 CFR 367.31(c). Each Designated State Agency (DSA) that administers the ILOIB program is required to submit the RSA–7–OB report annually to the RSA Commissioner on or before December 30.

Dated: December 14, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–27499 Filed 12–19–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6689–018]

Briar Hydro Associates, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 6689–018.

c. *Date Filed:* November 30, 2022.

d. *Applicant:* Briar Hydro Associates.

e. *Name of Project:* Penacook Upper Falls Hydroelectric Project.

f. *Location:* On the Contoocook River, in City of Concord, and Town of Boscawen, Merrimack County, New Hampshire. No federal lands are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032; email—*alocke@essexhydro.com.*

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or *jeanne.edwards@ferc.gov.*

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 29, 2023.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Penacook Upper Falls Project (P–6689–018).

m. The application is not ready for environmental analysis at this time.

n. *The Penacook Upper Falls Project consists of the following existing facilities:* (1) an impoundment with a surface area of 11.4-acres at an elevation of 306.0 feet above National Geodetic Vertical Datum 1929; (2) a 21-foot-high, 187-foot-long timber stoplog dam with a gated concrete spillway ; (3) a 58-foot-wide, 15-foot-long forebay; (4) a 12.5-foot-wide, 39.3-foot-high trashrack with 3.5-inch clear spacing; (5) a 44-foot-wide by 81-foot-long, concrete powerhouse, integral to the dam, containing one Kaplan turbine generating unit with a capacity of 3.02 megawatts; (6) a 350-foot-long, 47-foot-wide tailrace; (7) transmission facilities consisting of a 4.16/34.5- kilovolt (kV) transformer and a 50-foot-long, 34.5-kV transmission line; and (8) other appurtenances.

The project operates in a run-of-river mode and had an average annual generation of 13,825,011 kilowatt-hours between 2012 and 2021. No changes to the project are proposed.

o. Copies of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–6689). For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—February 2023
Request Additional Information (if necessary)—March 2023
Issue Acceptance Letter—May 2023
Issue Scoping Document 1 for comments—May 2023
Issue Scoping Document 2 (if necessary)—August 2023
Issue Notice of Ready for Environmental Analysis August—2023

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27586 Filed 12–19–22; 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: CP23–25–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Southern Natural Gas Company, L.L.C submits Abbreviated Application for Authorization to Abandon Services Under Certificate of Public Convenience and Necessity under CP23–25.
Filed Date: 12/13/2022.
Accession Number: 20221213–5057.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: RP23–280–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Negotiated PAL Koch Energy Services, LLC GN0822 to be effective 12/14/2022.
Filed Date: 12/14/22.
Accession Number: 20221214–5030.
Comment Date: 5 p.m. ET 12/27/22.

Docket Numbers: RP23–281–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Georgia Pacific Negotiated Rate to be effective 12/15/2022.
Filed Date: 12/14/22.
Accession Number: 20221214–5042.
Comment Date: 5 p.m. ET 12/27/22.

Docket Numbers: RP23–282–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: New Service Agreements—Brotman to be effective 1/1/2023.
Filed Date: 12/14/22.
Accession Number: 20221214–5048.
Comment Date: 5 p.m. ET 12/27/22.

Docket Numbers: RP23–283–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Update Non-Conforming List—Brotman to be effective 1/1/2023.
Filed Date: 12/14/22.
Accession Number: 20221214–5049.
Comment Date: 5 p.m. ET 12/27/22.

Docket Numbers: RP23–284–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: Tariff Notice Address Change Filing to be effective 1/14/2023.
Filed Date: 12/14/22.
Accession Number: 20221214–5075.
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.

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 14, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27622 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3342–025]

Briar Hydro Associates, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.
b. *Project No.:* 3342–025.
c. *Date Filed:* November 30, 2022.
d. *Applicant:* Briar Hydro Associates.
e. *Name of Project:* Penacook Lower Falls Hydroelectric Project.
f. *Location:* On the Contoocook River, in City of Concord, and Town of Boscawen, Merrimack County, New

Hampshire. No federal lands are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032; email—*alocke@essexhydro.com*.

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or *jeanne.edwards@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 29, 2023.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Penacook Lower Falls Project (P–3342–025).

m. The application is not ready for environmental analysis at this time.

n. The Penacook Lower Falls Project consists of the following existing facilities:

(1) an impoundment with a surface area of 8.4-acres at an elevation of 278.6 feet National Geodetic Vertical Datum 1929; (2) a concrete dam with a 15-foot-long, 70-foot-wide forebay, a 106-foot-long, gated spillway, a 316-foot-long auxiliary spillway, and a 140-foot-long, gated diversion structure; (3) a 23.3-foot-long, 46.1-foot-high trash rack with a 3.625-inch clear spacing; (4) a 35-foot-wide by 97.5-foot-long concrete powerhouse, integral with the spillway, containing one Kaplan style turbine-generator unit with a capacity of 4.6 megawatts; (5) a 700-foot-long, 45-foot wide tailrace; (6) transmission facilities consisting of a 4.16/34.5 kilovolt (kV) transformer and 200-foot-long, 34.5-kV transmission line; and (7) other appurtenances.

The project operates in a run-of-river mode. The project had an average annual generation of 20,198,820 kWh kilowatt-hours between 2012 and 2021. No changes in the project operation are proposed.

o. Copies of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–3342). For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)	February 2023.
Request Additional Information (if necessary)	March 2023.
Issue Acceptance Letter	May 2023.
Issue Scoping Document 1 for comments	May 2023.
Issue Scoping Document 2 (if necessary)	August 2023
Issue Notice of Ready for Environmental Analysis	August 2023.

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27589 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–618–000]

Sandy Ridge Wind 2, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sandy Ridge Wind 2, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 3, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: December 14, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27624 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–607–000]

K2SO, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of K2SO, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 3, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: December 14, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27625 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–26–000.

Applicants: EdSan 1B Group 1 Edwards, LLC, EdSan 1B Group 1 Sanborn, LLC, EdSan 1B Group 2, LLC, EdSan 1B Group 3, LLC, Daylight I, LLC, Edwards Solar Line I, LLC, Sanborn Solar Line I, LLC, Axium ES Holdings LLC.

Description: Supplement to November 10, 2022 Joint Application for Authorization Under Section 203 of the Federal Power Act of EdSan 1B Group 1 Edwards, LLC, et al.

Filed Date: 12/13/22.

Accession Number: 20221213–5191.

Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: EC23–38–000.

Applicants: Pacific Gas and Electric Company.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Pacific Gas and Electric Company.

Filed Date: 12/13/22.

Accession Number: 20221213–5190.

Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: EC23–39–000.

Applicants: DTE Electric Company.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of DTE Electric Company.

Filed Date: 12/13/22.

Accession Number: 20221213–5193.

Comment Date: 5 p.m. ET 1/27/23.

Docket Numbers: EC23–40–000.

Applicants: Bloom Energy Corporation, Yellow Jacket Energy, LLC,2015 ESA Project Company, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Bloom Energy Corporation, et al.

Filed Date: 12/14/22.

Accession Number: 20221214–5115.

Comment Date: 5 p.m. ET 1/4/23.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL23–16–000.

Applicants: RENEW Northeast, Inc. v. ISO New England, Inc. and New

England Participating Transmission Owners

Description: Complaint of RENEW Northeast, Inc.

Filed Date: 12/13/22.

Accession Number: 20221213–5186.

Comment Date: 5 p.m. ET 1/3/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–2013–014; ER15–2020–009; ER19–2250–006; ER22–1418–002.

Applicants: Trailstone Renewables, LLC, TrailStone Energy Marketing, LLC ,Talen Montana, LLC, Talen Energy Marketing, LLC.

Description: Updated Market Power Analysis for Northwest Region of Talen Energy Marketing, LLC, et al.

Filed Date: 12/14/22.

Accession Number: 20221214–5113.

Comment Date: 5 p.m. ET 1/4/23.

Docket Numbers: ER18–1182–003.

Applicants: System Energy Resources, Inc.

Description: Compliance filing: SERI Part Settlement Compliance (ER23–435 and EL2–72) to be effective 10/1/2022.

Filed Date: 12/13/22.

Accession Number: 20221213–5162.

Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–298–000.

Applicants: Southern Maryland Electric Cooperative, Inc., PJM Interconnection, L.L.C.

Description: Filing Withdrawal: Southern Maryland Electric Cooperative, Inc. submits tariff filing per 35.17(a): Withdrawal of SMECO Revisions in ER23–298 to be effective N/A.

Filed Date: 12/14/22.

Accession Number: 20221214–5064.

Comment Date: 5 p.m. ET 1/4/23.

Docket Numbers: ER23–341–000.

Applicants: Concurrent LLC.

Description: Supplement to Application for Market-Based Rate Authority to November 1, 2022, Concurrent, LLC tariff filing.

Filed Date: 12/13/22.

Accession Number: 20221213–5196.

Comment Date: 5 p.m. ET 12/23/22.

Docket Numbers: ER23–435–002.

Applicants: System Energy Resources, Inc.

Description: Compliance filing: SERI MPSC Settlement Compliance (ER18–1182, et al.) to be effective 7/1/2022.

Filed Date: 12/13/22.

Accession Number: 20221213–5161.

Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–623–000.

Applicants: Moss Landing Energy Storage 3, LLC.

Description: Baseline eTariff Filing: SFA 1,2,3 and Luminant COC filing new to be effective 12/14/2022.

Filed Date: 12/13/22.

Accession Number: 20221213–5133.

Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–624–000.

Applicants: Moss Landing Energy Storage 2, LLC.

Description: § 205(d) Rate Filing: SFA 1,2,3 and Luminant COC filing to be effective 12/14/2022.

Filed Date: 12/13/22.

Accession Number: 20221213–5134.

Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–625–000.

Applicants: System Energy Resources, Inc.

Description: § 205(d) Rate Filing: SERI UPSA AFUDC Update to be effective 1/1/2023.

Filed Date: 12/14/22.

Accession Number: 20221214–5000.

Comment Date: 5 p.m. ET 1/4/23.

Docket Numbers: ER23–626–000.

Applicants: Dominion Energy South Carolina, Inc.

Description: Dominion Energy South Carolina, Inc. submits Petition for Waiver of certain provisions in the Power Supply Agreement with the City of Orangeburg.

Filed Date: 12/12/22.

Accession Number: 20221212–5246.

Comment Date: 5 p.m. ET 1/2/23.

Docket Numbers: ER23–627–000.

Applicants: New England Power Company.

Description: New England Power Company Submits Notice of Cancellation of Local Service Agreement with Sterling Municipal Electric Department.

Filed Date: 12/9/22.

Accession Number: 20221209–5237.

Comment Date: 5 p.m. ET 12/30/22.

Docket Numbers: ER23–628–000.

Applicants: Bellflower Solar 1, LLC.

Description: Baseline eTariff Filing: Rate Schedule for Reactive Supply and Voltage Control Services to be effective 1/15/2023.

Filed Date: 12/14/22.

Accession Number: 20221214–5036.

Comment Date: 5 p.m. ET 1/4/23.

Docket Numbers: ER23–629–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2022–12–14 Att N Revisions 0.10.0 to be effective 3/9/2023.

Filed Date: 12/14/22.

Accession Number: 20221214–5076.

Comment Date: 5 p.m. ET 1/4/23.

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 14, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27623 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3240–040]

Briar Hydro Associates; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 3240–040.

c. *Date Filed:* November 30, 2022.

d. *Applicant:* Briar Hydro Associates.

e. *Name of Project:* Rolfe Canal Hydroelectric Project.

f. *Location:* On the Contoocook River, in the City of Concord, Merrimack County New Hampshire. No federal lands are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032, email—*alocke@essexhydro.com.*

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or *jeanne.edwards@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental

document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 29, 2023.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Rolfe Canal Project (P–3240–040).

m. The application is not ready for environmental analysis at this time.

n. The Rolfe Canal Project diverts water from the York Dam into the Rolfe Canal and consists of the following existing facilities: (1) York impoundment with a surface area of 50-acres, at elevation of 342.5 feet National Geodetic Vertical Datum 1929 (NGVD29); (2) a 300-foot-long, 10-foot-high diversion dam (York Dam); (3) a 50-foot-wide concrete gated intake structure; (4) a 7,000-foot-long, 75-foot-wide, and 9-foot-deep power canal; (5) an additional impoundment (created by York Dam at the end of the power canal) with surface area of 3-acres, at elevation of 342.5 feet NGVD29, and a negligible storage capacity; (6) a 130-foot-long, 17-foot-high granite block intake dam; (7) a 950-foot-long underground penstock; (8) a 32-foot-wide by 90-foot-long, concrete powerhouse containing one Kaplan turbine-generating unit with a capacity of 4.285 megawatts; (9) a 1,200-foot-long tailrace; (10) transmission facilities consisting of a three-phase 4.16/34.5-kilovolt (kV) transformer; and a 34.5-kV, 650-foot-long transmission line; and (11) other appurtenances. The project has a 4,000-foot-long bypassed reach.

The project operates in a run-of-river mode with a minimum flow of 338 cubic feet per second (cfs), or inflow, whichever is less, into the York impoundment, a minimum flow of 50 cfs into the York bypass, and a minimum flow of 5 cfs into a historic channel that bypasses the penstock. The project had an average annual generation of 19,585,884 kilowatt-hours between 2014 and 2018. Briar Hydro proposes to increase the minimum flow into the York bypass to 100 cfs.

o. Copies of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–3240). For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary) February 2023

Request Additional Information (if necessary) March 2023

Issue Acceptance Letter May 2023

Issue Scoping Document 1 for comments May 2023

Issue Scoping Document 2 (if necessary) August 2023

Issue Notice of Ready for Environmental Analysis August 2023

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27587 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–35–000]

EcoEléctrica, L.P.; Notice of Technical Conference

On July 28, 2022, the Commission issued an order directing Commission staff to convene a technical conference regarding issues raised related to the structural analysis of EcoEléctrica, L.P.'s (EcoEléctrica) liquefied natural gas (LNG) storage tank at its LNG terminal in Peñuelas, Puerto Rico.[1] The technical conference will be held on January 18–19, 2023, from approximately 9:00 a.m. to 4:00 p.m. Eastern time. The conference will be held virtually and in person (Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC).

The conference will include discussions between EcoEléctrica staff and contractors, Commission staff and contractors, other federal agencies staff and contractors, and parties to the proceeding that request to attend and follow procedures described herein. These parties should be prepared to discuss the record in this proceeding, particularly the questions and issues raised in the Commission's September 24, 2021 Order Establishing Briefing, subsequent orders, and the briefs responding thereto.[2] If time permits, there may be an opportunity for attendees to the technical conference to submit questions for discussion. Following the technical conference, parties to the proceeding may submit written post-technical conference comments on or before February 17, 2023, which will be included in the record of the proceeding. Any comments filed that contain privileged or Critical Energy/Electric Infrastructure Information (CEII) should be filed in accordance with the Commission's

[1] *EcoEléctrica, L.P.,* 180 FERC ¶ 61,054 (2022).

[2] *EcoEléctrica, L.P.,* 176 FERC ¶ 61,192 (2021) (Briefing Order); *EcoEléctrica, L.P.,* 177 FERC ¶ 61,164 (2021) (Order Partially Granting Request for Extension of Time); *EcoEléctrica, L.P.,*179 FERC ¶ 61,038 (2022) (Order on Initial Brief), *order on reh'g,* 180 FERC ¶ 61,054 (2022). *See also,* EcoElectrica, L.P.'s February 8, 2022 Initial Brief and Supplements.

regulations and the protective agreement in this proceeding.

The technical conference will not be open for the public to attend. Only those specified in the preceding paragraph may attend. Any party to the proceeding that wishes to attend the technical conference must sign and file with the Commission the protective agreement filed by EcoEléctrica on August 16, 2022, no later than 10 days prior to the conference and must notify FERC staff of the number of persons planning to attend in person and virtually. Any federal agency that wishes to attend the technical conference must have a signed and executed acknowledgment and agreement and/or memorandum of understanding with the Commission that covers information sharing relevant to the preceding described above no later than 10 days prior to the conference and must notify FERC staff of the number of persons planning to attend in person and virtually.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call toll-free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this technical conference including how to participate, virtual and in person meeting details, etc., please contact Karla Bathrick at *karla.bathrick@ferc.gov* or at (202) 502–6328.

Dated: December 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27588 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–590–000]

Chaves County Solar II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Chaves County Solar II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 3, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: December 14, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27626 Filed 12–19–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0087; FRL–10514–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Mineral Wool Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NESHAP for Mineral Wool Production (EPA ICR Number 1799.11, OMB Control Number 2060–0362), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested, via the **Federal Register**, on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 19, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0087, to: (1) EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB's Office of Information and Regulatory Affairs using the interface at: *https://www.reginfo.gov/public/do/PRAMain.* Find this specific information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and

Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Mineral Wool Production (40 CFR part 63, subpart DDD) were proposed on May 8, 1997; promulgated on June 1, 1999; and amended on July 29, 2015. These regulations apply to both new and existing mineral wool production facilities with cupolas and/or curing ovens. These standards apply to owners or operators located at a plant site that is a major source of hazardous air pollutant (HAP) emissions. New facilities include those that commenced either construction or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart DDD. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: None.

Respondents/affected entities: Mineral wool production facilities with cupolas and/or curing ovens.

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

Estimated number of respondents: Nine (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 2,440 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $368,000 (per year), which includes $75,400 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The increase in burden from the most recently approved ICR is due to several adjustments. There is an adjustment increase in labor burden due to a small increase in the number of respondents. Although the total labor cost decreased, this is due to a correction to attribute testing costs to O&M costs, resulting in a corresponding increase to the O&M costs. In addition to accounting for the testing costs as O&M costs, the increased O&M costs are also due to the increased number of respondents and adjusting the testing costs from 2011 to 2020 dollars and the baghouse leak detection costs from 2006 to 2020 dollars using the CEPCI Index. Because there are no new sources expected during the three-year period covered by this ICR, there is no change in the estimated capital cost.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–27533 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0081; FRL–10512–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Off-Site Waste and Recovery Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Off-Site Waste and Recovery Operations (EPA ICR Number 1717.13, OMB Control Number 2060–0313), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested, via the **Federal Register**, on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 19, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0081, to: (1) EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB's Office of Information and Regulatory Affairs using the interface at: *https://www.reginfo.gov/public/do/PRAMain.* Find this specific information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (40 CFR part 63, subpart DD) apply to existing facilities and new facilities with organic hazardous air pollutant (HAP) emissions that are involved in waste management and recovery operations, and that are not subject to Federal air standards under other subparts in Part 63. In addition, Subpart DD cross-references control requirements to be applied to specific types of affected sources: tanks level–1; containers; surface

impoundments; individual drain systems; oil-water separators; organic water separators; and loading, transfer, and storage systems. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to the NESHAP.

Form Numbers: None.

Respondents/affected entities: Owners and operators of off-site waste and recovery operations.

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

Estimated number of respondents: 50 (total).

Frequency of response: Semiannually.

Total estimated burden: 47,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $6,650,000 (per year), which includes $908,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. The burden for one-time activities found in the previous ICR renewal were removed; however the overall burden did not change. The capital vs. O&M costs have increased. Previous O&M costs were based on 2013 dollars and have been inflated to 2021 dollars (most-recent annual CEPCI value). The burden for photocopying and postage was removed, as these costs are already included in the ''O&M'' line item, thus this cost is duplicative.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–27534 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10492–01–R6]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permits for Lucid Energy Delaware, LLC, Frac Cat and Big Lizard Compressor Stations, Lea County, New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final Order on Petitions for objection to two Clean Air Act title V operating permits.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an Order dated November 16, 2022, granting in part and denying in part two Petitions dated June 15, 2022, and September 26, 2022, from WildEarth Guardians (collectively, the Petitions). The Petitions requested that the EPA object to two Clean Air Act (CAA) title V operating permits issued by the New Mexico Environmental Department's Air Quality Bureau (AQB) to the Lucid Delaware Energy, LLC (Lucid) Frac Cat Compressor Station (Frac Cat) and the Lucid Big Lizard (Big Lizard) Compressor Station, both located in Lea County, New Mexico. EPA notes that the AQB approved an Administrative Amendment transferring ownership of both facilities from Lucid Delaware Energy, LLC to Targa Northern Delaware, LLC on November 10, 2022.

ADDRESSES: The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, the Petition, and other supporting information. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed below if you need alternative access to the final Order and Petition, which are available electronically at: *https://www.epa.gov/title-v-operating-permits/title-v-petition-database*.

FOR FURTHER INFORMATION CONTACT: Elizabeth Layton, EPA Region 6 Office, Air Permits Section, (214) 665–2136, *layton.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION: The CAA affords the EPA a 45-day period to review and object to, as appropriate, operating permits proposed by state permitting authorities under title V of the CAA. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of the EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or unless the grounds for the issue arose after this period.

The EPA received two petitions from WildEarth Guardians dated June 15, 2022, and September 26, 2022 (collectively, the Petitions), requesting that the EPA Administrator object to the issuance of final operating permit No. P288 issued by the AQB to the Lucid Energy Delaware, LLC Frac Cat Compressor Station as well as final operating permit No. P289, issued by AQB to the Lucid Energy Delaware, LLC Big Lizard Compressor Station (the Final Permits). Both facilities are located in Lea County, New Mexico.

The Petitions claim that the Final Permits fail to assure compliance with applicable title V permitting regulations pertaining to the ''timely and complete'' requirements for title V renewal applications, the Final Permits fail to ensure the facilities operate in compliance with the New Mexico State Implementation Plan (SIP) by lacking a reasoned explanation, basis, or analysis demonstrating how the Final Permits will ensure the operation of the facilities will not cause or contribute to an exceedance in the National Ambient Air Quality Standard (NAAQS) for ozone. The Petitions also claim the Final Permits fail to require sufficient periodic monitoring that is enforceable as a practical matter to ensure compliance with applicable emission limits.

On November 16, 2022, the EPA Administrator issued an Order granting in part and denying in part the Petitions. The Order explains the basis for the EPA's decision.

Dated: December 14, 2022.

David Garcia,

Director, Air and Radiation Division, Region 6.

[FR Doc. 2022–27512 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0086; FRL–10513–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (EPA ICR Number 1790.10, OMB Control Number 2060–0361, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested, via the **Federal Register,** on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 19, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0086, to: (1) EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB's Office of Information and Regulatory Affairs using the interface at: *https://www.reginfo.gov/public/do/PRAMain.* Find this specific information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (40 CFR part 63, subparts AA and BB) were proposed on December 27, 1996; promulgated on June 10, 1999; and amended on: June 12, 2002; April 20, 2006; August 19, 2015; September 28, 2017; and November 3, 2020. These regulations apply to both new and existing phosphoric acid manufacturing facilities and phosphate fertilizers production facilities that are major sources of hazardous air pollutants (HAPs). The rule applies to component processes at these facilities and to any new, or modified, or reconstructed sources. Component processes include the following facilities: wet process phosphoric acid plants; super-phosphoric acid plants; purified phosphoric acid plants; phosphate rock dryers; phosphate rock calciners; diammonium and monoammonium phosphate plants; and granular triple superphosphate (GTSP) plants. The EPA most-recently finalized rule amendments on November 9, 2020 (85 FR 69508). The final rule included a narrow revision to 40 CFR part 63, subpart AA to revise the mercury MACT floor for existing calciners. This ICR incorporates the amendments from the final rule, however, these amendments included no changes to the projected costs and hour burden from the information collection requirements of the 2015 final rule. New facilities include those that commenced either construction, or modification, or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subparts AA and BB.

Form Numbers: None.

Respondents/affected entities: Phosphoric acid and phosphate fertilizer production facilities

Respondent's obligation to respond: Mandatory (40 CFR 63, Subparts AA and BB).

Estimated number of respondents: 13 (total).

Frequency of response: Quarterly, semiannual.

Total estimated burden: 2,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $ 463,000 (per year), which includes $199,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) the regulations have not changed significantly over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is either very low or non-existent, so there is no significant change in the overall burden. There is an increase in capital/startup and/or operation & maintenance costs. We have updated the capital/startup or operation and maintenance (O&M) costs from 2015 dollars to 2020 dollars using the annual Chemical Engineering Plant Cost Index (CEPCI).

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–27535 Filed 12–19–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1307; FR ID 119086]

Information Collection Approved by the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information

unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Jonathan Lechter, at 202–418–0984.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1307.

OMB Approval Date: December 12, 2022.

OMB Expiration Date: December 31, 2025.

Title: Performance Evaluation of Numbering Administration Vendor(s).

Form No.: N/A.

Respondents: Business or other for-profit entities, not-for-profit entities, State, local or Tribal Governments.

Number of Respondents and Responses: 6,161 respondents; 6,161 responses.

Estimated Time per Response: 0.25 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 1,540 hours.

Annual Cost Burden: No cost.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in 47 U.S.C. 251(e)(1).

Needs and Uses: This collection of information is an annual performance satisfaction survey of its vendor(s) acting as administrators for various telephone number management functions. These functions may be performed by one or multiple vendors under one or multiple contracts. The vendor(s) act pursuant to their contract(s) with the Federal Communications Commission (FCC) and the FCC's numbering rules. *See* 47 CFR 52.1 *et seq.*

The survey will be designed and administered by the Numbering Administration Oversight Working Group (NAOWG) of the North American Numbering Council (NANC). The NANC is a Federal Advisory Committee established under the Federal Advisory Committee Act. The NANC advises the FCC and makes recommendations, reached through consensus, that foster efficient and impartial number administration. The NANC is composed of representatives of telecommunications carriers, regulators, cable providers, Voice Over internet Protocol (VoIP) providers, industry associations, vendors, and consumer advocates. Working groups, including the NAOWG, made up of industry experts, have been established by the NANC to assist in its efforts. The NANC charter can be found at *https://docs.fcc.gov/public/attachments/DOC-375774A1.pdf.*

The relevant contract(s) require that the Commission and/or its designee shall develop and conduct a performance survey for each administrator. The results of this consumer satisfaction survey will provide the FCC with indicators on how well the vendor(s) are acting as the North American Numbering Program Administrator (NANPA), Pooling Administrator (PA), Routing Number Administrator (RNA) and Reassigned Numbering Database Administrator (RNDA) is meeting its contractual obligations and accomplishing its mission as the NANPA/PA/RNA/RNDA.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–27615 Filed 12–19–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 87 FR 75251.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, December 13, 2022 at 10:00 a.m. and its continuation at the conclusion of the open meeting on December 15, 2022.

CHANGES IN THE MEETING: The meeting also discussed:

Financial or commercial information obtained from any person which is privileged or confidential.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2022–27676 Filed 12–16–22; 11:15 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23–0729]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Customer Surveys Generic Clearance for the National Center for Health Statistics (NCHS)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on September 23, 2022 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting

''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Customer Surveys Generic Clearance for the National Center for Health Statistics (NCHS) (OMB Control No. 0920–0729, Exp. 08/31/2023) — Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (HHS), acting through the National Center for Health Statistics (NCHS), shall collect statistics on the extent and nature of illness and disability of the population of the United States. This is an Extension request for a generic approval from OMB to conduct customer surveys over the next three years.

As part of a comprehensive program, NCHS plans to continue to assess its customers' satisfaction with the content, quality and relevance of the information it produces. NCHS will conduct voluntary customer surveys to assess strengths in agency products and services and to evaluate how well it addresses the emerging needs of its data users. Results of these surveys will be used in future planning initiatives.

The data will be collected using a combination of methodologies appropriate to each survey. These may include evaluation forms, mail surveys, focus groups, automated and electronic technology (*e.g.,* email, web-based surveys), and telephone surveys. Systematic surveys of several groups will be folded into the program. Among these are federal customers and policy makers, state and local officials who rely on NCHS data, the broader educational, research, and public health community, and other data users. Respondents may include data users who register for and/or attend NCHS sponsored conferences, persons who access the NCHS website and the detailed data available through it, consultants, and others. Respondent data items may include (in broad categories) information regarding respondent's gender, age, occupation, affiliation, location, etc., to be used to characterize responses only. Other questions will attempt to obtain information that will characterize the respondents' familiarity with and use of NCHS data, their assessment of data content and usefulness, general satisfaction with available services and products, and suggestions for improvement of surveys, services and products.

In order to capture feedback opportunities, this extension request allows for both respondents and time per response for a total estimated annual burden total of 2,250 hours. There is no cost to respondents other than their time to participate in the surveys.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (Hours)
Questionnaire for conference registrants/ attendees.	Public/ private researchers, Consultants, and others	1,000	1	15/60
Focus groups	Public/ private researchers, Consultants, and others	500	1	1
Web-based	Public/ private researchers, Consultants, and others	4,000	1	15/60
Other customer surveys	Public/ private researchers, Consultants, and others	2,000	1	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27503 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Safety and Health Research Advisory Committee (MSHRAC); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice that under the Federal Advisory Committee Act of October 6, 1972, that the Mine Safety and Health Research Advisory Committee (MSHRAC), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period through November 30, 2024.

FOR FURTHER INFORMATION CONTACT: George W. Luxbacher, PE, Ph.D., Designated Federal Officer, Mine Safety and Health Research Advisory Committee (MSHRAC), CDC, HHS, 1600 Clifton Road NE, Mailstop V24–4, Atlanta, GA 30329–4027; Telephone: (404) 498–2808; Email: *GLuxbacher@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. 2022–27482 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–0853; Docket No. CDC–2023–0141]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Asthma Information Reporting System (AIRS). The purpose of AIRS is to collect performance measure (PM) and surveillance data designed to increase the efficiency and effectiveness of, and to monitor the impact of, state, local and territorial asthma programs.

DATES: CDC must receive written comments on or before February 21, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0141 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Asthma Information and Reporting System (AIRS) (OMB Control No. 0920–0853, Exp. 5/31/2023)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 1999, the CDC began its National Asthma Control Program (NACP), a public health approach to address the burden of asthma. The program supports the proposed objectives of ''Healthy People 2030'' for asthma and is based on the public health principles of surveillance, partnerships, interventions, and evaluation. CDC requests a three-year approval to extend the ''Asthma Information Reporting System (AIRS)'' (OMB Control No. 0920–0853; Exp. Date 5/31/2023).

The three-year Extension will allow CDC to continue to monitor states' program planning and delivery of public health activities and the programs' collaboration with health care systems through the end of the five-year cooperative agreement—*A Comprehensive Public Health Approach to Asthma Control through Evidence-Based Interventions* (CDC–RFA–EH19–1902).

The goal of this data collection is to provide NCEH with routine information about the activities and performance of the state, local and territorial recipients funded under the NACP through an annual reporting system. NACP requires recipients to report activities related to partnerships, infrastructure, evaluation and interventions to monitor the programs' performance in reducing the burden of asthma. AIRS also includes two forms to collect aggregate emergency department (ED) visits and hospital discharge (HD) data from recipients.

AIRS was first approved by OMB in 2010 to collect data in a web-based system to monitor and guide participating state health departments. Since implementation in 2010, AIRS and the technical assistance provided by CDC staff have provided states with uniform data reporting methods and linkages to other states' asthma program information and resources. Thus, AIRS has saved state resources and staff time when asthma programs embark on asthma activities similar to those conducted elsewhere.

In the past three years, AIRS data were used to:

- Facilitate communication about interventions across states and enable inquiries regarding interventions by populations with a disproportionate burden, age groups, geographic areas and other variables of interest;
- Provide feedback to the grantees about their performance relative to others through the distribution of written reports and several presentations summarizing the results;
- Customize and provide technical assistance and support materials to address implementation challenges;
- Serve as a resource to the branch, division, and center when addressing congressional, departmental and institutional inquiries. For example, the PMs allow us to report the number and age distribution of people reached with intensive asthma self-management education through the recipients and their partners;
- Help the branch align its current interventions with CDC goals and

allowed the monitoring of progress toward these goals. For example, recipient efforts to establish public health–health care collaboration has been integrated into CDC's 6|18 initiative which connects healthcare purchasers, payers, and providers with CDC researchers, economists, and policy analysts to find ways to improve health and control costs with the 6|18 interventions;

• Allow the NACP and the state asthma programs to make more informed decisions about activities to achieve objectives. For example, PM information identified a problem with enrolling patients most in need of intervention into recipient programs. This led to cross-state discussions and changes in recruitment strategies;

• Motivate use of data and evaluation findings. For example, the requirement to report actions taken based on evaluation findings encourages program managers and health departments officials to act on recommendations in evaluation reports.

CDC requests OMB approval for an estimated 105 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Funded Asthma Program Recipients	Performance Measures Reporting Tool.	30	1	150/60	75
	Emergency Department Visits Reporting Form.	30	1	30/60	15
	Hospital Discharge Reporting Form	30	1	30/60	15
Total					105

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27506 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–1030]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Developmental Studies to Improve the National Health Care Surveys'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on September 30, 2022 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Developmental Studies to Improve the National Health Care Surveys (OMB Control No. 0920–1030, Exp. 06/30/2023)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes the Secretary of Health and Human Services (DHHS), acting through the Division of Health Care Statistics (DHCS) within NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The DHCS conducts the National Health Care Surveys (NHCS), a family of nationally representative surveys of encounters and health care providers in inpatient, ambulatory, and long-term care settings. This information collection request (ICR) is for the extension of a generic clearance to conduct developmental studies to improve this family of surveys. This three-year clearance period will include studies to evaluate and improve upon existing survey design and operations, as well as to examine the feasibility of, and address challenges that may arise with, future expansions of the National Health Care Surveys.

Specifically, this request covers developmental research with the

following aims: (1) to explore ways to refine and improve upon existing survey designs and procedures; and (2) to explore and evaluate proposed survey designs and alternative approaches to data collection. The goal of these research studies is to further enhance DHCS existing and future data collection protocols to increase research capacity and improve health care data quality for the purpose of monitoring public health and well-being at the national, state and local levels, thereby informing the health policy decision-making process. The information collected through this Generic ICR will not be used to make generalizable statements about the population of interest or to inform public policy; however, methodological findings may be reported.

This Generic ICR would include studies conducted in person, via the telephone or internet, and by postal or electronic mail. Methods covered would include qualitative (*e.g.,* usability testing, focus groups, ethnographic studies, and respondent debriefing questionnaires) and/or quantitative (*e.g.,* pilot tests, pre-tests and split sample experiments) research methodologies. Examples of studies to improve existing survey designs and procedures may include evaluation of incentive approaches to improve recruitment and increase participation rates; testing of new survey items to obtain additional data on providers, patients, and their encounters while minimizing misinterpretation and human error in data collection; testing data collection in panel surveys; triangulating and validating survey responses from multiple data sources; assessment of the feasibility of data retrieval; and development of protocols that will locate, identify, and collect accurate survey data in the least labor-intensive and burdensome manner at the sampled practice site.

To explore and evaluate proposed survey designs and alternative approaches to collecting data, especially with the nationwide adoption of electronic health records, studies may expand the evaluation of data extraction of electronic health records and submission via continuity of care documentation to small/mid-size/large medical providers and hospital networks, managed care health plans, prison-hospitals, and other inpatient, outpatient, and long-term care settings that are currently either in-scope or out-of-scope of the National Health Care Surveys. Research on feasibility, data quality and respondent burden also may be carried out in the context of developing new surveys of health care providers and establishments that are currently out-of-scope of the National Health Care Surveys.

Specific motivations for conducting developmental studies include: (1) within the National Ambulatory Medical Care Survey (NAMCS), new clinical groups may be expanded to include dentists, psychologists, podiatrists, chiropractors, optometrists), mid-level providers (*e.g.,* physician assistants, advanced practice nurses, nurse practitioners, certified nurse midwives) and allied-health professionals (*e.g.,* certified nursing aides, medical assistants, radiology technicians, laboratory technicians, pharmacists, dieticians/nutritionists). Current sampling frames such as those from the American Medical Association may be obtained and studied, as well as frames that are not currently in use by NAMCS, such as state and organizational listings of other licensed providers; (2) within the National Study of Long-Term Care Providers, additional new frames may be sought and evaluated and data items from home care agencies, long-term care hospitals, and facilities exclusively serving individuals with intellectual/developmental disability may be tested. Similarly, data may be obtained from lists compiled by states and other organizations. Data about the facilities as well as residents and their visits will be investigated; and (3) in the inpatient and outpatient care settings, the National Hospital Care Survey (NHCS) and the National Hospital Ambulatory Medical Care Survey (NHAMCS) may investigate the addition of facility and patient information especially as it relates to insurance and electronic medical records.

Projects under development or in the planning stages include two projects related to opioid use: one that will investigate adding questions to NAMCS on physician understanding of guidelines for opioid use and one that will test the validation of an algorithm for identifying opioid-involved hospital visits. Another study will develop a Hospital-Based Victim Services Frame.

The NHCSs collect critical, accurate data that are used to produce reliable national estimates—and in recent years (when budget allows), state-level estimates—of clinical services and of the providers who delivered those services in inpatient, outpatient, ambulatory, and long-term care settings. The data from these surveys are used by providers, policy makers and researchers to address important topics of interest, including the quality and disparities of care among populations, epidemiology of medical conditions, diffusion of technologies, effects of policies and practice guidelines, and changes in health care over time. Research studies need to be conducted to improve existing and proposed survey design and procedures of the NHCSs, as well as to evaluate alternative data collection approaches particularly due to the expansion of electronic health record use, and to develop new sample frames of currently out-of-scope providers and settings of care.

Average burdens are designed to cover 15–40 min interviews as well as 90-minute focus groups, as well as longer on-site visits, and situations where organizations may be preparing electronic data files. CDC requests OMB approval for an estimated 3,000 annual burden hours. There is no cost to respondents other than their time to participate.

TABLE 1—ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Health Care Providers and Business entities	Interviews, surveys, focus groups, experiments (in person, phone, internet, postal/electronic mail).	2,582	1	1
Health Care Providers,State/local government agencies, and business entities.	Interviews, surveys, focus groups, experiments (in person, phone, internet, postal/electronic mail).	167	1	2.5

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27504 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23–1185]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Youth Outreach Generic Clearance for the National Center for Health Statistics (NCGS)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on September 23, 2022 to obtain comments from the public and affected agencies. CDC did not receive any comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Youth Outreach Generic Clearance for the National Center for Health Statistics (NCHS) (OMB Control No. 0920–1185, Exp. 07/31/2023)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center for Health Statistics (NCHS) is authorized to collect data under Section 306 of the Public Health Service Act (42 U.S.C. 242k). NCHS has a history of reaching out to young people to encourage their interest in Science, Technology, Engineering and Math (STEM). Examples of past involvement include adopting local schools, speaking at local colleges, conducting a Statistics Day for high school students, and, most recently, conducting the NCHS Data Detectives Camp for middle school students.

The success of these programs has inspired NCHS leadership and staff to want to look for new and continuing opportunities to positively impact the lives of young people and expand their interest, understanding of, and involvement in the sciences. NCHS requests approval for a New Generic Clearance mechanism to collect information for these youth outreach activities and to inform future NCHS planning activities.

As stated, these activities include hosting the Data Detectives Camp annually; hosting Statistics Day annually; creating youth poster sessions for professional conferences (such as the NCHS National Conference on Health Statistics or the American Statistical Association Conference etc.); hosting a statistical or health sciences fair or other STEM-related competitions; organizing a STEM Career Day or similar activity; developing web-based sites or materials with youth focus, as well as other programs developed to meet future youth outreach needs, particularly activities that encourage STEM.

Information will be collected using a combination of methodologies appropriate to each program. These may include: registration forms, letters of recommendation, evaluation forms, mail surveys, focus groups, automated and electronic technology (*e.g.* email, Web-based surveys), and telephone surveys.

OMB approval is requested for three years to conduct the Youth Outreach Generic Clearance for the National Center for Health Statistics (NCHS). CDC requests OMB approval for an estimated 1,750 annual burden hours. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of survey	Respondent	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)
Questionnaires/Applications	Student/Youth	800	1	30/60
Applicants Questionnaire/Application	Parents/Guardians of Applicants	800	1	30/60
Applications, Recommendations, and Other applicant-supporting documentation.	School Officials/Community Representatives	1200	1	30/60
Focus Groups	Student/Youth; Parent/Guardian; School Officials; Other.	50	1	60/60
Other Program Surveys	Student/Youth; Parent/Guardian; School Officials; Other.	600	1	30/60

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27505 Filed 12–19–22; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–0639]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 Special Exposure Cohort Petitions to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on January 31, 2022 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) Special Exposure Cohort Petitions. (OMB Control No. 0920–0639, Exp. 01/31/2023)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384–7385 [1994, supp. 2001] was enacted. The Act established a compensation program to provide a lump sum payment of $150,000 and medical benefits as compensation to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provided for payment of compensation for certain survivors of these covered employees. This program has been mandated to be in effect until Congress ends the funding.

Among other duties, the Department of Health and Human Services (HHS) was directed to establish and implement procedures for considering petitions by classes of nuclear weapons workers to be added to the ''Special Exposure Cohort'' (the ''Cohort''). In brief, EEOICPA authorizes HHS to designate such classes of employees for addition to the Cohort when NIOSH lacks sufficient information to estimate with sufficient accuracy the radiation doses of the employees, and if HHS also finds that the health of members of the class may have been endangered by the radiation dose the class potentially incurred. HHS must also obtain the advice of the Advisory Board on Radiation and Worker Health (the ''Board'') in establishing such findings. On May 28, 2004, HHS issued a rule that established procedures for adding such classes to the Cohort (42 CFR part 83). The rule was amended on July 10, 2007.

The HHS rule authorizes a variety of respondents to submit petitions. Petitioners are required to provide the information specified in the rule to qualify their petitions for a complete evaluation by HHS and the Board. HHS has developed two forms to assist the petitioners in providing this required information efficiently and completely. Form A is a one-page form to be used by EEOICPA claimants for whom NIOSH has attempted to conduct dose reconstructions and has determined that available information is not sufficient to complete the dose reconstruction. Form B, accompanied by separate instructions, is intended for all other petitioners. Forms A and B can be submitted electronically as well as in hard copy. Respondent/petitioners should be aware that HHS is not requiring respondents to use the forms. Respondents can choose to submit petitions as letters or in other formats, but petitions must meet the informational requirements stated in the rule. NIOSH expects, however, that all petitioners for whom Form A would be appropriate will actually use the form, since NIOSH will provide it to them upon determining that their dose reconstruction cannot be completed and encourage them to submit the petition. NIOSH expects the large majority of petitioners for whom Form B would be appropriate will also use the form, since it provides a simple, organized format for addressing the informational requirements of a petition.

NIOSH will use the information obtained through the petition for the following purposes: (a) identify the petitioner(s), obtain their contact information, and establish that the petitioner(s) is qualified and intends to petition HHS; (b) establish an initial definition of the class of employees being proposed to be considered for addition to the Cohort; (c) determine whether there is justification to require HHS to evaluate whether or not to designate the proposed class as an addition to the Cohort (such an evaluation involves potentially extensive data collection, analysis, and related deliberations by NIOSH, the Board, and HHS); and (d) target an evaluation by HHS to examine relevant

potential limitations of radiation monitoring and/or dosimetry-relevant records and to examine the potential for related radiation exposures that might have endangered the health of members of the class.

Finally, under the rule, petitioners may contest the proposed decision of the Secretary to add or deny adding classes of employees to the cohort by submitting evidence that the proposed decision relies on a record of either factual or procedural errors in the implementation of these procedures. NIOSH estimates that the average time to prepare and submit such a challenge is five hours. Because of the uniqueness of this submission, NIOSH is not providing a form. The submission will typically be in the form of a letter to the Secretary.

CDC requests OMB approval for an estimated 43 annual burden hours. There are no costs to respondents unless a respondent/petitioner chooses to purchase the services of a expert in dose reconstruction, an option provided for under the rule.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avgerage burden per response (in hrs.)
Petitioners	Form A 42 CFR 83.9	2	1	3/60
	Form B 42 CFR 83.9	5	1	5
Petitioners using a submission format other than Form B (as permitted by rule).	42 CFR 83.9	1	1	6
Petitioners Appealing final HHS decision (no specific form is required).	42 CFR 83.18	2	1	5
Claimant authorizing a party to submit petition on his/her behalf.	Authorization Form 42 CFR 83.7	3	1	3/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27502 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–1175; Docket No. CDC–2023–0140]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Environmental Public Health Tracking Network (Tracking Network). The Tracking Program is the ongoing collection, integration, analysis, and dissemination of health, exposure, and hazard data designed to drive public health actions that protect the population from harm resulting from exposure to environmental contaminants, and integrates these data from various sources including state and local health departments (SLHD) into the Tracking Network.

DATES: CDC must receive written comments on or before February 21, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0140 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail*: Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Environmental Public Health Tracking Network (Tracking Network) (OMB Control No. 0920–1175, Exp. 07/31/2023)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC is submitting a three-year Paperwork Reduction Act (PRA) revision information collection request (ICR) for Environmental Public Health Tracking Network (Tracking Network) (OMB Control No. 0920–1175, Expiration 07/31/2023). This information collection is sponsored by the Environmental Public Health Tracking Section (Tracking Section), Division of Environmental Health Science and Practice (DEHSP), National Center for Environmental Health (NCEH) at CDC.

In September 2000, the Pew Environmental Health Commission issued a report entitled America's Environmental Health Gap: Why the Country Needs a Nationwide Health Tracking Network. The Commission documented a critical gap in knowledge that hinders our national efforts to reduce or eliminate diseases that might be prevented by better managing environmental factors due largely to the fact that existing environmental health systems were inadequate and fragmented. They described a lack of data for the leading causes of mortality and morbidity, a lack of data on exposure to hazards, a lack of environmental data with applicability to public health, and barriers to integrating and linking existing data. To address this critical gap, the Commission recommended a ''Nationwide Health Tracking Network'' for disease and exposures. In response to the report and this critical gap, Congress appropriated funds in the fiscal year 2002 budget for the CDC to establish the National Environmental Public Health Tracking Program (Tracking Program) and Network and has appropriated funds each year thereafter to continue this effort.

The Tracking Program includes State and Local Health Departments (SLHD) which collaborate to: (1) build and maintain the Tracking Network; (2) advance the practice and science of environmental public health tracking; (3) communicate information to guide environmental health policies and actions; (4) enhance tracking workforce and infrastructure; and (5) foster collaborations between health and environmental programs. In spring of 2022, under Notice of Funding Opportunity CDC–RFA–EH22–2202, the CDC's Tracking Program funded 33 state and local public health programs (funded SLHDs). These recipients were selected through a competitive objective review process and are managed as CDC cooperative agreements. Awards are for five years and are renewed through an Annual Performance Report (APR)/Continuation Application. The Tracking Program collects data from recipients about their activities and progress for the purposes of program evaluation and monitoring (hereafter referenced as program data).

Environmental public health tracking is the ongoing collection, integration, analysis, and dissemination of health, exposure, and hazard data (hereinafter referenced as Tracking Network data) to inform public health actions that protect the population from harm resulting from exposure to environmental contaminants. The Tracking Network provides data from existing health, exposure, and hazard surveillance systems and supports ongoing efforts within the public health and environmental sectors to improve data collection, accessibility, and dissemination as well as analytic and response capacity. Data that were previously collected for different purposes and stored in separate state and local systems are now available in a nationally standardized format allowing programs to begin bridging the gap between health and the environment.

CDC is requesting approval for an increase of seven additional annual respondents from the 30 approved under the previous ICR and five-year NOFO (CDC–RFA–EH17–1702). In spring of 2022, under the new five-year NOFO (CDC–RFA–EH22–2202), the CDC's Tracking Program funded 33 state and local public health programs (funded SLHD). CDC is now requesting approval for up to 37 annual respondents. This number reflects the current 33 SLHD respondents plus four to allow for future funding of new SLHD or to collect voluntary responses from unfunded SLHD.

Data from recipients or other SLHD are submitted annually following standardized procedures. Tracking network data submitted annually by recipients and other SLHD to the Tracking Program include seven datasets and the metadata form, specifically: (1) birth defects prevalence; (2) childhood blood lead levels; (3) drinking water monitoring; (4) emergency department visits; (5) hospitalizations; (6) radon testing; (7) biomonitoring; and (8) metadata. The Tracking Program will begin using Research Electronic Data Capture (REDCap) for its Electronic Data Capture System (EDCS) needs, which is an easy-to-use, free software tool useful for programmatic deliverable management and data capture. Using an EDCS significantly reduces the burden by optimizing the data capture method to eliminate the need for personnel to complete manual data cleaning and organization before using data for analysis and evaluation upon submission.

CDC is requesting OMB approval for a decrease in the annualized number of responses from 628 to 599 and the annualized time burden from 21,860 to 14,041 hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
State and local health department.	Birth Defects Prevalence Form	30	1	40	1,200
	Childhood Blood Lead Levels Form	37	1	40	1,480
	Drinking Water Monitoring Form	37	1	50	1,850
	Emergency Department Visits Form	37	1	40	1,480

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Avgerage burden per response (in hrs.)	Total burden (in hrs.)
	Hospitalizations Form	37	1	40	1,480
	Radon Testing Form	25	1	50	1,250
	Biomonitoring Form	25	1	40	1,000
	Metadata Records	37	2	20	1,480
	Environmental Public Health Tracking Work Plan—REDCap.	33	1	21	693
	Program Accomplishments and Public Health Actions Report—REDCap.	33	2	20	1,320
	Performance Measures Report—REDCap	33	1	20	660
	PHA Impact Follow-up—REDCap	33	2	15/60	16
	Communications Plan Template	33	1	2	66
	Web Stats Template	33	2	1	66
Total					14,041

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27507 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–1215; Docket No. CDC–2022–0142]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Awardee Lead Profile Assessment (ALPA). The ICR includes a survey to collect information to identify jurisdictional legal frameworks governing funded childhood lead poisoning prevention programs and strategies for implementing childhood lead poisoning prevention activities in the United States.

DATES: CDC must receive written comments on or before February 21, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0142 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA)(44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Awardee Lead Profile Assessment (ALPA) (OMB Control No. 0920–1215, Exp. Date 03/31/2024)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is requesting a three-year Paperwork Reduction Act (PRA) clearance for a Revision of an

information collection request (ICR) titled ''Awardee Lead Profile Assessment (ALPA)'' (OMB Control No. 0920–1215; Exp. Date 03/31/2024). The goal of this ICR is to build on the CDC's existing childhood lead poisoning prevention program. CDC requires that ongoing and new CDC Childhood Lead Poisoning Prevention Programs (CLPPPs), including the FY21 ''Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children'' (CDC–RFA–EH21–2102), complete the ALPA annually. This annual information collection will be used to identify jurisdictional legal frameworks governing CDC-funded childhood lead poisoning programs (CLPPPs) in the United States and strategies for implementing childhood lead poisoning prevention activities. CDC will use this information to inform guidance, resource development, and technical assistance activities in support of the ultimate goal, which is eliminating lead exposure in children. The dissemination of these ALPA results will ensure that both funded and non-funded jurisdictions are able to: (1) identify policies and other factors that support or hinder childhood lead poisoning prevention efforts; (2) understand what strategies are being used by funded public health agencies to implement childhood lead poisoning prevention activities; and (3) use this knowledge to develop and apply similar strategies to support the national agenda to eliminate childhood lead poisoning.

CDC will now use one data collection mode, a web survey. Reporting via email will be eliminated. This program management survey has been revised in several ways, including the addition of new answer options and questions to understand usage of the updated blood lead reference value (BLRV). The time per response is the same from the 2021 estimate (47 minutes per response) despite revisions to the survey. This updated estimate is based on recent pilot tests of the revised survey among nine respondents, and includes the time needed to review the ALPA Training Manual.

CDC is requesting OMB approval for a total time burden of 59 hours and a total number of 75 respondents per year. These estimates remain unchanged from the previous PRA clearance.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
State or Local Governments (or their bona fide fiscal agents).	ALPA Web Survey	75	1	47/60	59
Total					59

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–27508 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Centers for Disease Control and Prevention (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHAC); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Centers for Disease Control and Prevention (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHAC), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through November 25, 2024.

FOR FURTHER INFORMATION CONTACT: CAPT Deron Burton, MD, JD, MPH, Acting Designed Federal Officer, Centers for Disease Control and Prevention (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHAC), CDC, HHS, 1600 Clifton Road, NE, Mailstop US8–6, Atlanta, Georgia 30329–4027; Telephone (404) 639–1506; Email: *DBurton@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. 2022–27481 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2022–0014]

Record of Decision for the Final Supplemental Environmental Impact Statement for the Roybal Campus 2025 Master Plan; Correction

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: General notice.

SUMMARY: On November 17, 2022, the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), published a notice in the **Federal Register** announcing the Record of Decision (ROD) for the Final Supplemental Environmental Impact Statement (SEIS) for CDC's Roybal Campus in Atlanta, Georgia. In the Decision section of the notice, the description of the incinerator was incorrect.

FOR FURTHER INFORMATION CONTACT: Thayra Riley, NEPA Coordinator, Office of Safety, Security, and Asset Management, Centers for Disease Control and Prevention, 1600 Clifton

Road NE, Mailstop H20–4, Atlanta, Georgia 30329. Email: *cdc-roybalga-seis@cdc.gov.* Telephone: 770–488–8170.

SUPPLEMENTARY INFORMATION:

Correction

In the Decision section of the **Federal Register** notice of November 17, 2022 (87 FR 69023), center column, the description of the incinerator was labeled as a Hazardous/Medical/Infectious Waste Incinerator. The correct description is a Hospital/Medical/Infectious Waste Incinerator. The correct Decision section to read:

Decision

Based on the Final SEIS, CDC has decided to implement Alternative 1 (Preferred Alternative) as the selected alternative. This Alternative includes the construction and operation of a new Hospital/Medical/Infectious Waste Incinerator in a new laboratory building, the operation of two proposed emergency standby power diesel generators to support that laboratory, and annual testing of the generators. According to the analysis, no potential significant impacts were identified for the selected alternative.

CDC's decision is based on an analysis of the potential impacts of the alternatives considered in the SEIS weighed against CDC's continuing need to fulfill its unique and critical public health mission and its ability to mitigate in whole or in part the adverse impacts. CDC also considered the input from the public and agencies, such as the U.S. Fish and Wildlife Service, Georgia Department of Natural Resources, Georgia Environmental Protection Division, and Georgia Historic Preservation Division.

Availability of the ROD: The ROD is available in the Supplemental Materials tab of the docket found on the Federal eRulemaking Portal at *https://www.regulations.gov,* identified by Docket No. CDC–2022–0014.

Dated: December 15, 2022.

Angela K. Oliver,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2022–27584 Filed 12–19–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1774–FN]

Medicare Program; Approval of Request for an Exception to the Prohibition on Expansion of Facility Capacity Under the Hospital Ownership and Rural Provider Exceptions to the Physician Self-Referral Prohibition

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces our decision to approve the request from Doctors Hospital at Renaissance, Ltd.'s for an exception to the prohibition on expansion of facility capacity.

DATES: The decision announced in this notice is applicable on December 16, 2022.

ADDRESSES: *POH-ExceptionRequests@cms.hhs.gov.*

I. Background

Section 1877 of the Social Security Act (the Act), also known as the physician self-referral law: (1) prohibits a physician from making referrals for certain designated health services payable by Medicare to an entity with which he or she (or an immediate family member) has a financial relationship unless the requirements of an applicable exception are satisfied; and (2) prohibits the entity from filing claims with Medicare (or billing another individual, entity, or third party payer) for any improperly referred designated health services. A financial relationship may be an ownership or investment interest in the entity or a compensation arrangement with the entity. The statute establishes a number of specific exceptions and grants the Secretary of the Department of Health and Human Services (the Secretary) the authority to create regulatory exceptions for financial relationships that do not pose a risk of program or patient abuse.

Section 1877(d) of the Act sets forth exceptions related to ownership or investment interests held by a physician (or an immediate family member of a physician) in an entity that furnishes designated health services. Section 1877(d)(2) of the Act provides an exception for ownership or investment interests in rural providers (the ''rural provider exception''). In order to qualify for the rural provider exception, the designated health services must be furnished in a rural area (as defined in section 1886(d)(2) of the Act) and substantially all the designated health services furnished by the entity must be furnished to individuals residing in a rural area. In addition, in the case where the entity is a hospital, the hospital must meet the requirements of section 1877(i)(1) of the Act no later than September 23, 2011. Section 1877(d)(3) of the Act provides an exception for ownership or investment interests in a hospital located outside of Puerto Rico (the ''whole hospital exception''). In order to qualify for the whole hospital exception, the referring physician must be authorized to perform services at the hospital, the ownership or investment interest must be in the hospital itself (and not merely in a subdivision of the hospital), and the hospital must meet the requirements of section 1877(i)(1) of the Act no later than September 23, 2011.

II. Prohibition on Facility Expansion

Section 6001(a)(3) of the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148) amended the rural provider and whole hospital exceptions to provide that a hospital may not increase the number of operating rooms, procedure rooms, and beds beyond that for which the hospital was licensed on March 23, 2010 (or, in the case of a hospital that did not have a provider agreement in effect as of this date, but did have a provider agreement in effect on December 31, 2010, the effective date of such provider agreement) (the hospital's ''baseline number of operating rooms, procedure rooms, and beds''). Thus, since March 23, 2010, a physician-owned hospital that seeks to avail itself of either exception is prohibited from expanding the number of operating rooms, procedure rooms, and beds (''facility capacity'') unless it has been granted an exception to the prohibition by the Secretary.

Section 6001(a)(3) of the Affordable Care Act added new section 1877(i)(3)(A)(i) of the Act, which required the Secretary to establish and implement a process for granting exceptions to the prohibition on expansion of facility capacity for hospitals that qualify as an ''applicable hospital.'' Section 1106 of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) amended section 1877(i)(3)(A)(i) of the Act to require the Secretary to establish and implement a process for granting exceptions to the prohibition on expansion of facility capacity for hospitals that qualify as either an ''applicable hospital'' or a ''high

Medicaid facility.'' These terms are defined at sections 1877(i)(3)(E) and 1877(i)(3)(F) of the Act. The process for requesting an exception to the prohibition on expansion of facility capacity is discussed in section III of this notice.

The requirements for qualifying as an applicable hospital are set forth at § 411.362(c)(2), and the requirements for qualifying as a high Medicaid facility are set forth at § 411.362(c)(3). An ''applicable hospital'' means a hospital: (1) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date that the hospital submits its request for an exception to the prohibition on expansion of facility capacity) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by the Bureau of the Census; (2) whose annual percent of total inpatient admissions under Medicaid is equal to or greater than the average percent with respect to such admissions for all hospitals in the county in which the hospital is located during the most recent 12-month period for which data are available (as of the date that the hospital submits its request for an exception to the prohibition on expansion of facility capacity); (3) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries; (4) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and (5) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located. A ''high Medicaid facility'' means a hospital that: (1) is not the sole hospital in a county; (2) with respect to each of the three most recent 12-month periods for which data are available, has an annual percent of total inpatient admissions under Medicaid that is estimated to be greater than such percent with respect to such admissions for any other hospital located in the county in which the hospital is located; and (3) does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries. The regulation at § 411.362(c)(2)(ii) specifies the acceptable data sources for determining whether a hospital qualifies as an applicable hospital, and the regulation at § 411.362(c)(3)(ii) specifies the acceptable data sources for determining whether a hospital qualifies as a high Medicaid facility.

III. Exception Approval Process

In the Calendar Year (CY) 2012 Outpatient Prospective Payment System/Ambulatory Surgical Centers (OPPS/ASC) final rule (76 FR 74121), we published regulations establishing the process for a hospital to request an exception from the prohibition on facility expansion (the ''exception process'') at § 411.362(c)(4), the process for obtaining community input related to a hospital's request at § 411.362(c)(5), and related definitions at § 411.362(a).

In the CY 2015 OPPS/ASC final rule (79 FR 66770), we expanded the permissible data sources on which a hospital may rely to show that it is qualified to request an exception to the prohibition on expansion of facility capacity (that is, that the hospital qualifies as either an applicable hospital or a high Medicaid facility). We also amended the exception process established in the CY 2012 OPPS/ASC final rule to increase the period of time after which an exception request will be deemed complete when an external data source is used by a requesting hospital or in the public comments to determine whether a hospital qualifies as either an applicable hospital or high Medicaid facility. In the CY 2015 OPPS/ASC final rule, we stated that it is possible (if not likely) that, when reviewing an expansion exception request, the Centers for Medicare & Medicaid Services (CMS) would need to verify the data (and other information, if any) provided by the requesting hospital and any commenters, as well as consider the data in light of the information otherwise available to CMS (79 FR 66995).

In the CY 2021 OPPS/ASC final rule (85 FR 85866), we revised the regulations that set forth the exception process with respect to high Medicaid facilities to remove certain regulatory restrictions that are not included in the Act. As of January 1, 2021, a high Medicaid facility may request an exception to the prohibition on expansion of facility capacity more frequently than once every 2 years; may request to expand its facility capacity beyond 200 percent of the hospital's baseline number of operating rooms, procedure rooms, and beds; and, if its request is granted, is not restricted to locating approved expansion capacity on the hospital's main campus. An applicable hospital remains subject to the statutory limitation on the frequency of requests for an exception to the prohibition on expansion of facility capacity (no more than once every 2 years); may not request to expand its facility capacity beyond 200 percent of the hospital's baseline number of operating rooms, procedure rooms, and beds; and, if its request is granted, is restricted to locating approved expansion capacity on the hospital's main campus.

Our regulations at § 411.362(c)(5) require us to solicit community input on the request for an exception by publishing a notice of the request in the **Federal Register**. Individuals and entities in the hospital's community will have 30 days to submit comments on the request. Community input must take the form of written comments and may include documentation demonstrating that the hospital requesting the exception does or does not qualify as an applicable hospital or high Medicaid facility as defined at § 411.362(c)(2) and (3), respectively. In the November 30, 2011 final rule (76 FR 74522), we gave examples of community input, such as documentation demonstrating that the hospital does not satisfy one or more of the data criteria or that the hospital discriminates against beneficiaries of Federal health programs; however, we noted that these were examples only and that we do not restrict the type of community input that may be submitted. If we receive timely comments from the community, we notify the requesting hospital, and the hospital has 30 days after such notice to submit a rebuttal statement (§ 411.362(c)(5)).

A request for an exception to the facility expansion prohibition is considered complete as follows:

- If the request, any written comments, and any rebuttal statement include only Healthcare Provider Cost Reporting Information System (HCRIS) data, the request is considered complete as of: (1) the end of the 30-day comment period if CMS receives no written comments from the community; or (2) the end of the 30-day rebuttal period if CMS receives written comments from the community, regardless of whether the hospital submitting the request submits a rebuttal statement (§ 411.362(c)(5)(i)).
- If the request, any written comments, or any rebuttal statement include data from an external data source, the request is considered complete no later than: (1) 180 days after the end of the 30-day comment period if CMS receives no written comments from the community; or (2) 180 days after the end of the 30-day rebuttal period if CMS receives written comments from the community, regardless of whether the hospital

submitting the request submits a rebuttal statement (§ 411.362(c)(5)(ii)).

If we grant the request for an exception to the prohibition on expansion of facility capacity for a hospital that qualifies as an applicable hospital, the expansion may occur only in facilities on the hospital's main campus and may not result in the number of operating rooms, procedure rooms, and beds for which the hospital is licensed exceeding 200 percent of the hospital's baseline number of operating rooms, procedure rooms, and beds (§ 411.362(c)(6)). If we grant the request for an exception to the prohibition on expansion of facility capacity for a hospital that qualifies as a high Medicaid facility, these limitations do not apply. The CMS decision to grant or deny a hospital's request for an exception to the prohibition on expansion of facility capacity must be published in the **Federal Register** in accordance with our regulations at § 411.362(c)(7).

IV. Public Response to Notice With Comment Period

On February 9, 2022, we published a notice in the **Federal Register** entitled ''Announcement of Request for an Exception to the Prohibition on Expansion of Facility Capacity under the Hospital Ownership and Rural Provider Exceptions to the Physician Self-Referral Prohibition'' (87 FR 7471). In the February 9, 2022 notice, we stated that, as permitted by section 1877(i)(3) of the Act and our regulations at § 411.362(c), the following physician-owned hospital requested an exception to the prohibition on expansion of facility capacity:

Name of Facility: Doctors Hospital at Renaissance, Ltd.

Location: 5501 South McColl Road, Edinburg, Texas 78539.

Basis for Exception Request: High Medicaid Facility.

The request that is the subject of this notice is the second request for an exception to the prohibition against expansion of facility capacity that Doctors Hospital at Renaissance, Ltd. (DHR) has submitted to CMS. In the September 17, 2015 **Federal Register** notice (80 FR 55851), we published our decision granting DHR's request to add a total of 551 operating rooms, procedure rooms, and beds for which it is licensed, permitting an increase in DHR's facility capacity to 200 percent of its baseline number of operating rooms, procedure rooms, and beds (the 2014 Request). DHR qualified as an applicable hospital at the time it submitted its 2014 Request, which occurred prior to the regulatory revisions that became effective on January 1, 2021. As stated above, the January 1, 2021 regulatory revisions permit a hospital that qualifies as a high Medicaid facility to: (1) request an exception to the prohibition on expansion of facility capacity more frequently than once every 2 years; and (2) request to expand its facility capacity beyond 200 percent of the hospital's baseline number of operating rooms, procedure rooms, and beds. From September 11, 2015 (the effective date of our decision to grant the 2014 Request) until January 1, 2021, DHR was prohibited from submitting a second request for an exception to the prohibition against expansion of facility capacity under section 1877(i)(3)(B) of the Act and § 411.362(c)(1) (as then in effect). DHR submitted the request that is the subject of this notice (the 2021 Request) on July 21, 2021.

During the 30-day public comment period, we received 14 public comments through *www.regulations.gov.* Twelve comments supported CMS approving DHR's 2021 Request for an exception to the prohibition against expansion of facility capacity; two comments opposed CMS approving the request. The comments in opposition to CMS approving the 2021 Request did not challenge DHR's qualification as a high Medicaid facility in Hidalgo County, Texas. Rather, the commenters asserted that, even if DHR qualifies as a high Medicaid facility, CMS has authority to deny the request and, to be consistent with the statutory purpose of allowing limited expansion of grandfathered physician-owned hospitals, which focuses on the need for additional facility capacity and beneficiary interests in the community in which the requesting hospital is located, CMS should deny the request. One of these commenters asserted that, given DHR's publicly-stated plans to expand outside Hidalgo County, Texas, granting the 2021 Request would result in the establishment of a new physician-owned hospital in contravention of section 1877(i) of the Act.

On April 22, 2022, DHR filed a rebuttal statement in response to the comments that opposed CMS granting its 2021 Request for an exception to the prohibition against expansion of facility capacity. Among other things, DHR asserted that, because it qualifies as a high Medicaid facility, CMS must grant its 2021 Request for an exception to the prohibition against expansion of facility capacity.

V. Decision

DHR submitted the information, data, and certifications specified at § 411.362(c)(4). This notice announces our decision with respect to DHR's 2021 Request for an exception to the prohibition against expansion of facility capacity.

A. Qualification as a High Medicaid Facility

In order to make a request with respect to which CMS may issue a decision, a hospital must qualify as an applicable hospital or a high Medicaid facility. As of the date of its 2021 Request, DHR was located in Hidalgo County, Texas. We determined that, on the date the 2021 Request was submitted, DHR qualified as a high Medicaid facility in Hidalgo County, Texas, for the following reasons:

- DHR is not the sole hospital in Hidalgo County, Texas;
- With respect to each of the three most recent 12-month periods for which data were available as of the date the hospital submitted its 2021 Request, DHR had an annual percent of total inpatient admissions under Medicaid that was estimated to be greater than such percent with respect to such admissions for any other hospital located in Hidalgo County, Texas; and
- DHR certified that it does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries.

B. Decision Regarding the 2021 Request for an Exception to the Prohibition on Facility Expansion

After reviewing DHR's 2021 Request, the public comments, and DHR's rebuttal statement, we are granting DHR's 2021 Request for an exception to the prohibition against expansion of facility capacity. Our decision grants DHR's 2021 Request to add a total of 551 operating rooms, procedure rooms, and beds. Under the regulations in effect as of the date that the 2021 Request was submitted, the location of the expansion is not limited to facilities on the hospital's main campus, and may result in the number of operating rooms, procedure rooms, and beds for which DHR is licensed exceeding 200 percent of its baseline number of operating rooms, procedure rooms, and beds.

CMS makes no determination as to whether, following expansion, any financial relationships between DHR and its physician owners would satisfy any other requirement of the whole hospital or rural hospital exceptions.

VI. Collection of Information Requirements

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 15, 2022.

Lynette Wilson,

Federal Register Liaison, Center for Medicare & Medicaid Services.

[FR Doc. 2022–27566 Filed 12–16–22; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No. 0970–0545]

Proposed Information Collection Activity; Next Generation of Enhanced Employment Strategies Project

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Planning, Research, and Evaluation (OPRE) within the Administration for Children and Families (ACF) is proposing an extension to the data collection activities conducted for the Next Generation of Enhanced Employment Strategies (NextGen) Project (Office of Management and Budget (OMB) #0970–0545). The project is rigorously evaluating innovative interventions to promote employment and economic security among low-income individuals with complex challenges. The project includes an experimental impact study, descriptive study, and cost study. This extension will allow additional time to conduct study intake, collect data from NextGen programs and staff, and to conduct participant data collections. No changes are proposed to the data collection instruments.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act (PRA) of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *opreinfocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION: *Description:* OPRE is conducting the NextGen Project to build the evidence around effective strategies for helping low-income individuals find and sustain employment. This project will identify and test innovative employment programs designed to help people facing complex challenges secure economic independence. The project is partnering with the Social Security Administration to incorporate a focus on employment-related early interventions for people with current or foreseeable disabilities who have limited work history and are potential applicants for Supplemental Security Income.

We seek approval for an extension without change for the currently approved data collection activities. For the impact study, this includes: (1) Baseline survey and identifying and contact information data collection, (2) a first follow-up survey, and (3) a second follow-up survey. For the descriptive study, this includes (1) service receipt tracking, (2) a staff characteristics survey, (3) a program leadership survey, (4) semi-structured program discussions (conducted with program leaders, supervisors, partners, staff, and providers), (5) semi-structured employer discussions, and (6) in-depth participant interviews. For the cost study, this includes an Excel-based cost workbook.

Respondents: Program staff, program partners, employer staff, and individuals enrolled in the NextGen Project. Program staff and partners may include case managers, health professionals, workshop instructors, job developers, supervisors, managers, and administrators. Employers may include administrators, human resources staff, and worksite supervisors.

Annual Burden Estimates

This extension request does not change the average burden per response for any of the data collections. The annual burden estimates under this request are for an additional 3 years of data collection. The number of respondents has been updated to reflect the estimated number over the next 3 years.

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Baseline survey and identifying and contact information—participants	3,000	1	0.42	1,260	420
Baseline survey and identifying and contact information—staff	120	25	0.42	1,260	420
First follow-up survey—participants	3,100	1	0.83	2,573	858
Second follow-up survey—participants	3,360	1	0.83	2,789	930
Service receipt tracking—program staff	80	150	0.08	960	320
Staff characteristics survey—staff	20	1	0.42	8	3
Program leadership survey—program leaders	5	1	0.25	1	1
Semi-structured program discussion guide—program leaders	4	1	1.5	6	2
Semi-structured program discussion guide—program supervisors and partners	8	1	1.0	8	3
Semi-structured program discussion guide—program staff and providers	8	1	1.0	8	3
Semi-structured program discussion guide—employers	8	1	1.0	8	3
In-depth participant interviews—participants	20	1	2.0	40	13
Cost workbook—program staff	28	1	32.0	896	299

Estimated Total Annual Burden Hours: 3,275.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 413 of the Social Security Act, as amended by the FY 2017 Consolidated Appropriations Act, 2017 (Pub. L. 115–31).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–27609 Filed 12–19–22; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

[OMB Control Number 0985–New]

Agency Information Collection Activities: Proposed Collection; Public Comment Request; Administration on Disabilities Evaluation of Technical Assistance for Independent Living Grantees

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This information collection (IC) solicits comments on the IC requirements relating to the Administration on Disabilities Evaluation of Technical Assistance for Independent Living Grantees.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by February 21, 2023.

ADDRESSES: Submit electronic comments on the collection of information to: Peter Nye at *OILPPRAComments@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC, 20201, Attention: Peter Nye.

FOR FURTHER INFORMATION CONTACT: Peter Nye, Administration for Community Living, Washington, DC, 20201, (202) 795–7606 or *OILPPRAComments@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval.

To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including

1. whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;
2. the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;
3. ways to enhance the quality, utility, and clarity of the information to be collected; and
4. ways to minimize the burden of the collection of information on respondents, including by automated collection techniques when appropriate, and other forms of information technology.

ACL is currently engaged in an effort to better understand the implementation and effectiveness of the technical assistance (TA) provided to Independent Living (IL) grantees (Centers for Independent Living (CILs), statewide independent living councils (SILCs), and designated state entities (DSEs)). The Rehabilitation Act of 1973, as amended authorizes the IL grantees to provide, expand, and improve independent living services for people with disabilities. Title VII, Part C authorizes funding to CILs. Section 711A(a) requires ACL to reserve funds for training and TA to SILCs, and section 721(b)(1) requires ACL to reserve funds for training and TA to CILs. TA efforts can support IL grantees in creating and maintaining effective organizations and services. TA, such as one-on-one TA, peer-to-peer mentoring, and webinars, is made available by the Independent Living Research Utilization (ILRU) program, the Association of Programs for Rural Independent Living (APRIL), the National Association of Statewide Independent Living Councils (NASILC), the National Council on Independent Living (NCIL), and the TA centers that ACL funds, including the Disability Employment TA Center (DETAC) and the Federal Housing and Services Resource Center (HSRC) (referred to as TA providers).

Although ACL monitors these TA providers activities, the effectiveness of the TA approach has yet to be assessed. The goal of this data-collection effort is to provide ACL with IL-grantee feedback on the TA approach, including what elements are effective, that can be incorporated into a future TA strategy that is most beneficial to IL grantees. In this IC, ACL will be surveying a total of approximately 408 Part C CILs, DSEs, and SILCs. The web-based survey will be sent electronically to representatives from all Part C CILs, SILCs, and DSEs. ACL will provide the survey in alternative modes, such as by mail or telephone, on grantee request an alternative mode can be provided. Results from this survey will provide ACL with a better understanding of the implementation and effectiveness of the current TA approach from the perspective of IL grantees.

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden: ACL estimates the burden of this collection of information as follows: The survey will be sent to approximately 408 representatives of CILs, SILCs, and DSEs. The approximate burden for web-based survey completion will be 25 minutes per respondent, which includes time to review the instructions, read the questions, and complete responses. This results in a total survey burden estimate of 10,200 minutes, which is 170 hours.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Survey	408	1	0.41667	170
Total	408	1	0.41667	170

Dated: December 14, 2022.

Alison Barkoff,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2022–27514 Filed 12–19–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Proposed Collection; Public Comment Request; of the Analysis of Senior Medicare Patrol Grantees' Program Implementation OMB Control Number 0985–New

AGENCY: Administration for Community Living, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This Information Collection (IC) solicits comments on the information collection requirements relating to the Analysis of Senior Medicare Patrol Grantees' Program Implementation.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by February 21, 2023.

ADDRESSES: Submit electronic comments on the collection of information to: Kristen Robinson, *Kristen.Robinson@acl.hhs.gov,* 202–795–7428. Submit written comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC 20201, Attention: Kristen Robinson.

FOR FURTHER INFORMATION CONTACT: Kristen Robinson, *Kristen.Robinson@acl.hhs.gov,* 202–795–7428.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Under ACL's Office of Healthcare Information and Counseling, the Senior Medicare Patrol (SMP) programs recruit and train a national network of staff and volunteers to help ''prevent, detect, and report Medicare fraud, errors, and abuse.'' [1] The SMP supports programs in every state, the District of Columbia, and in U.S. territories through grants. Additionally, the SMP Resource Center, established in 2003, assists SMP grantees in networking and provides tools, training, and technical assistance to SMPs. To promote and advance equity in its programming, ACL is conducting interviews with SMP program directors or their designee to better understand their activities and their experiences in program implementation and in reaching low-income and rural Medicare beneficiaries.

Specifically, this IC will allow ACL to understand (1) how SMP grantees conceive of program priorities; (2) successes and challenges SMP grantees experience in implementing activities and in reaching low-income and rural Medicare beneficiaries; and (3) which programs need clarification on programmatic priority expectations or additional support to conduct their activities.

Up to 54 SMP grantee representatives and one SMP Resource Center representative will be invited to participate in a 75-minute web-based interview. Findings from the interviews will inform ACL's strategy to support SMP grantees in achieving program priorities and to promote equitable access to SMP activities for low-income and rural Medicare beneficiaries.

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden: ACL estimates the burden of this collection of information as follows:

A maximum of 54 SMP grantee project directors or their designees and one representative from the SMP Resource Center are expected to participate in interviews over videoconferencing. The approximate burden for participation in interviews is 1.25 hours per respondent for a total estimate of 68.75 hours.

[1] Administration for Community Living. (2022, November 8). *Senior Medicare Patrol (SMP).* Available at *https://acl.gov/programs/protecting-rights-and-preventing-abuse/senior-medicare-patrol-smp.*

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Interviews with grantees	55	1	1.25	68.75
Total	55	1	1.25	68.75

Dated: December 14, 2022.

Alison Barkoff,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2022–27513 Filed 12–19–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the National Advisory Council on the National Health Service Corps

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the National Advisory Council on the National Health Service Corps (NACNHSC) will hold public meetings for the 2023 calendar year (CY). Information about NACNHSC, agendas, and materials for these meetings can be found on the NACNHSC website at *https://www.hrsa.gov/advisory-committees/national-health-service-corps*

DATES: NACNHSC meetings will be held on:

- March 21, 2023, 9:00 a.m.-5:00 p.m. Eastern Time (ET) and March 22, 2023, 9:00 a.m.-2:00 p.m. ET;
- June 27, 2023, 9:00 a.m.-5:00 p.m. ET and June 28, 2023, 9:00 a.m.-2:00 p.m. ET; and
- November 14, 2022, 9:00 a.m.-5:00 p.m. ET and November 15, 2022, 9:00 a.m.-2:00 p.m. ET.

ADDRESSES: Meetings may be held in-person, by teleconference, and/or ZOOM. For updates on how the meeting will be held, visit the NACNHSC website 30 business days before the date of the meeting, where instructions for joining meetings either in-person or remotely will be posted. In-person NACNHSC meetings will be held at 5600 Fishers Lane, Rockville, Maryland 20857. For meeting information updates, go to the meetings page on the NACNHSC website at*https://www.hrsa.gov/advisory-committees/national-health-service-corps/meetings.*

FOR FURTHER INFORMATION CONTACT: Diane Fabiyi-King, Designated Federal Official, Division of National Health Service Corps, HRSA, 5600 Fishers Lane, Room 14N23, Rockville, Maryland 20857; phone (301) 443–3609; or *NHSCAdvisoryCouncil@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The NACNHSC consults with, advises, and makes recommendations to the Secretary of Health and Human Services (Secretary) with respect to the Secretary's responsibilities in carrying out *Subpart II,* part D of title III of the Public Health Service Act (42 U.S.C. 254d–254k), as amended, including the designation of areas of the United States with health professional shortages and assignment of National Health Service Corps (NHSC) clinicians to improve the delivery of health services in health professional shortage areas. Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change.

For CY 2023 meetings, agenda items may include, but are not limited to, the identification of NHSC priorities for future program issues and concerns; proposed policy changes by using the varying levels of expertise represented on the NACNHSC to advise on specific program areas; updates from clinician workforce experts; and education and practice improvement in the training development of primary care clinicians. More general items may include presentations and discussions on the current and emerging needs of the health workforce; public health priorities; health care access and evaluation; NHSC-approved sites; HRSA priorities and other federal health workforce and education programs that impact the NHSC.

Refer to the NACNHSC website listed above for all current and updated information concerning the CY 2023 NACNHSC meetings, including draft agendas and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the NACNHSC should be sent to Diane Fabiyi-King using the contact information above at least 5 business days before the meeting date(s).

Individuals who need special assistance or another reasonable accommodation should notify Diane Fabiyi-King using the contact information listed above at least 10 business days before the meeting(s) they wish to attend. If a meeting is held in-person, it will occur in a federal government building, and attendees must go through a security check to enter the building. Non-U.S. Citizen attendees must notify HRSA of their planned attendance at an in-person meeting at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–27532 Filed 12–19–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Interdisciplinary, Community-Based Linkages

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL) will hold public meetings for the 2023 calendar year (CY). Information about ACICBL, agendas, and materials for these meetings can be found on the ACICBL website at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages.*

DATES: ACICBL meetings will be held on:

• January 19, 2023, 10:00 a.m.–5:00 p.m. Eastern Time (ET) and January 20, 2023, 10:00 a.m.–4:00 p.m. ET;

• April 17, 2023, 10:00 a.m.–5:00 p.m. ET; and

• August 3, 2023, 10:00 a.m.–5:00 p.m. ET.

ADDRESSES: Meetings will be held virtually and by teleconference; no in-person meetings will be conducted in 2023. For updates on how the meetings will be held, visit the ACICBL website 30 business days before the date of the meeting, where instructions for joining meetings will be posted. For meeting information updates, go to the ACICBL website meeting page at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages/meetings.*

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Official, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15N142, Rockville, Maryland 20857; 301–443–5260; or *SRogers@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACICBL provides advice and recommendations to the Secretary of Health and Human Services on policy, program development, and other matters of significance concerning the activities under sections 750–760, Title VII, Part D of the Public Health Service Act. ACICBL submits an annual report to the Secretary of Health and Human Services and to Congress describing its activities, including findings and recommendations made by the ACICBL concerning the activities under sections 750–760 of the Public Health Service Act and is responsible for developing performance measures, guidelines for longitudinal evaluations, and recommending appropriation levels for programs under Part D.

Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. For CY 2023 meetings, agenda items may include, but are not limited to, policy and program development and other significant matters related to activities authorized under Part D of the Public Health Service Act, positioning the public health system to anticipate future needs, reversing the negative trend in health care recruitment and retention, and identifying ways for incentivizing for health equity. Refer to the ACICBL website listed above for all current and updated information concerning the CY 2023 ACICBL meetings, including agendas and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACICBL should be sent to Shane Rogers using the contact information above at least 5 business days before the meeting date(s). Individuals who need special assistance or another reasonable accommodation should notify Shane Rogers using the contact information listed above at least 10 business days before the meeting(s) they wish to attend.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–27542 Filed 12–19–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the National Advisory Council on Nurse Education and Practice

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the National Advisory Council on Nurse Education and Practice (NACNEP) will hold public meetings for the 2023 calendar year (CY). Information about NACNEP, agendas, and materials for these meetings can be found on the NACNEP website at *https://www.hrsa.gov/advisory-committees/nursing*

DATES: NACNEP meetings will be (all in Eastern Time) on:

• February 2, 2023, 10:00 a.m.–5:00 p.m. and February 3, 2023, 10:00 a.m.–4:00 p.m.;

• May 10, 2023, 10:00 a.m.–5:00 p.m.;

• August 9, 2023, 10:00 a.m.–5:00 p.m. and August 10, 2023, 10:00 a.m.–4:00 p.m.; and

• December 6, 2023, 10:00 a.m.–5:00 p.m. and December 7, 2023, 10:00 a.m.–4:00 p.m.

ADDRESSES: Meetings may be held in-person, via teleconference, and/or on the Zoom virtual platform. For updates on how the meeting will be held, visit the NACNEP website 30 business days before the date of the meeting, where instructions for joining meetings either in-person or remotely will be posted. In-person NACNEP meetings will be held at 5600 Fishers Lane, Rockville, Maryland 20857. For meeting information updates, go to the NACNEP website meetings page at *https://www.hrsa.gov/advisory-committees/nursing/meetings.*

FOR FURTHER INFORMATION CONTACT: Justin Bala-Hampton, Designated Federal Official, NACNEP, Bureau of Health Workforce, Division of Nursing and Public Health, HRSA, 5600 Fishers Lane, 11N100D, Rockville, Maryland 20857; 301–443–5260; or email *Jbala-hampton@hrsa.gov.*

SUPPLEMENTARY INFORMATION: NACNEP provides advice and recommendations to the Secretary of HHS on policy, program development, and other matters of significance concerning the activities under Title VIII of the Public Health Service Act, including the range of issues relating to the nurse workforce, education, and practice improvement. NACNEP also prepares and submits an annual report to the Secretary of HHS and Congress describing its activities, including NACNEP's findings and recommendations concerning activities under Title VIII, as required by the Public Health Service Act.

Since priorities dictate meeting times, be advised that times and agenda items are subject to change. For CY 2023 meetings, agenda items may include but are not limited to, the nursing workforce, nursing practice improvement, nursing education, other Title VIII program activities, and the response to the COVID–19 pandemic. Refer to the NACNEP website listed above for all current and updated information concerning the CY 2023 NACNEP meetings, including draft agendas and meeting materials that will be posted 14 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to NACNEP should be sent to Justin Bala-Hampton using the contact information above at least 5 business days before the meeting.

Individuals who need special assistance or another reasonable accommodation should notify Justin Bala-Hampton at the email address and phone number listed above at least 10 business days before the meeting(s) they wish to attend. Any in-person meetings

will occur in a federal government building and attendees must go through a security check to enter the building. Non-U.S. citizen attendees must notify HRSA of their planned attendance at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–27530 Filed 12–19–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Training and Primary Care Medicine and Dentistry

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Training and Primary Care Medicine and Dentistry (ACTPCMD) will hold public meetings for the 2023 calendar year (CY). Information about ACTPCMD, agendas, and materials for these meetings can be found on the ACTPCMD website at *https://www.hrsa.gov/advisory-committees/primarycare-dentist.*

DATES: ACTPCMD meetings will be held on:

- February 23, 2023, 10:00 a.m.–5:00 p.m. Eastern Time (ET) and February 24, 2023, 10:00 a.m.–4:00 p.m. ET; and
- August 17, 2023, 10:00 a.m.–5:00 p.m. ET.

ADDRESSES: Meetings will be held virtually and by teleconference. No in-person meetings will be conducted in 2023. For updates on how the meeting will be held, visit the ACTPCMD website 30 business days before the date of the meeting, where instructions for joining meetings will be posted. For meeting information updates, go to the ACTPCMD website meeting page at *https://www.hrsa.gov/advisory-committees/primarycare-dentist/meetings.*

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Official, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15N142, Rockville, Maryland 20857; 301–443–5260; or *SRogers@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The ACTPCMD provides advice and recommendations to the Secretary of Health and Human Services (Secretary) on policy, program development, and other matters of significance concerning the activities under Section 747 of Title VII of the Public Health Service (PHS) Act, as it existed upon the enactment of Section 749 of the PHS Act in 1998. ACTPCMD prepares an annual report describing the activities of the committee, including findings and recommendations made by the committee concerning the activities under Section 747, as well as training programs in oral health and dentistry. The annual report is submitted to the Secretary as well as the Chair and ranking members of the Senate Committee on Health, Education, Labor and Pensions and the House of Representatives Committee on Energy and Commerce. The ACTPCMD develops, publishes, and implements performance measures and guidelines for longitudinal evaluations of programs authorized under Title VII, Part C of the PHS Act, and recommends appropriation levels for programs under this Part. Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. For CY 2023 meetings, agenda items may include, but are not limited to, inter-professional team-based education, practice, and retention in underserved rural communities, as well as matters pertaining to policy, program development, and other matters of significance concerning medicine and dentistry activities authorized under the relevant sections of the PHS Act. Refer to the ACTPCMD website listed above for all current and updated information concerning the CY 2023 ACTPCMD meetings, including agendas and meeting materials that will be posted 30 calendar days before the meeting. Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACTPCMD should be sent to Shane Rogers using the contact information above at least 5 business days before the meeting date(s). Individuals who need special assistance or another reasonable accommodation should notify Shane Rogers using the contact information listed above at least 10 business days before the meeting(s) they wish to attend.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–27541 Filed 12–19–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines Meeting

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Commission on Childhood Vaccines (ACCV) will hold public meetings for the 2023 calendar year (CY). Information about the ACCV, agendas, and materials for these meetings can be found on the ACCV website at *https://www.hrsa.gov/advisory-committees/vaccines/index.html.*

DATES: The ACCV meetings will be held on:

- March 1, 2023, 10:00 a.m. Eastern Time (ET)–4:00 p.m. ET;
- March 2, 2023, 10:00 a.m. ET–4:00 p.m. ET;
- September 6, 2023, 10:00 a.m. ET–4:00 p.m. ET; and
- September 7, 2023, 10:00 a.m. ET–4:00 p.m. ET.

ADDRESSES: Meetings may be held in-person or by Zoom webinar. For updates on how the meeting will be held, visit the ACCV website 30 business days before the date of the meeting, where instructions for joining meetings either in-person or remotely will be posted. In-person ACCV meetings will be held at 5600 Fishers Lane, Rockville, Maryland 20857. For meeting information updates, go to the ACCV website meeting page at *https://www.hrsa.gov/advisory-committees/vaccines/meetings.html.*

FOR FURTHER INFORMATION CONTACT: Pita Gomez, Principal Staff Liaison, Division of Injury Compensation Programs, HRSA, 5600 Fishers Lane, 08N186B, Rockville, Maryland 20857; 301–945–9386; or *ACCV@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The ACCV provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other

issues related to implementation of the National Vaccine Injury Compensation Program and concerning other matters as described under section 2119 of the Public Health Service Act (42 U.S.C. 300aa–19).

Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. Refer to the ACCV website listed above for any meeting updates that may occur. For CY 2023 meetings, agenda items may include, but are not limited to: updates from the Division of Injury Compensation Programs, Department of Justice, Office of Infectious Disease and HIV/AIDS Policy (HHS), Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health) and Center for Biologics, Evaluation and Research (Food and Drug Administration). Refer to the ACCV website listed above for all current and updated information concerning the CY 2023 ACCV meetings, including draft agendas and meeting materials that will be posted 5 calendar days before the meeting.

These meetings are open to the public. Meetings held by Zoom webinar will require registration. Registration details will be provided on the ACCV website at *https://www.hrsa.gov/advisory-committees/vaccines/meetings.html.* All registrants will be asked to provide their name, affiliation, and email address. After registration, individuals will receive personalized Zoom information via email.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACCV should be sent to Pita Gomez using the contact information above at least 5 business days before the meeting date(s).

Individuals who need special assistance or another reasonable accommodation should notify Pita Gomez using the contact information listed above at least 10 business days before the meeting(s) they wish to attend. If an in-person meeting is held, it will occur in a federal government building, and attendees must go through a security check to enter the building. Non-U.S. citizen attendees must notify HRSA of their planned attendance at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–27543 Filed 12–19–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Specialized Innovation Program.

Date: February 9, 2023.

Time: 11:00 a.m. to 2:00 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: Carol (Chang-Sook) Kim, Ph.D., Scientific Review Administrator, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, (301) 827–7940, *carolko@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Rare Disease Review.

Date: February 23, 2023.

Time: 10:00 a.m. to 3:00 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: Jing Chen, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, (301) 827–3268, *chenjing@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Small Grant Program.

Date: February 24, 2023.

Time: 10:00 a.m. to 6:00 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: Carol (Chang-Sook) Kim, Ph.D., Scientific Review Administrator, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, (301) 827–7940, *carolko@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 15, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27604 Filed 12–19–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2022–0037]

Homeland Security Advisory Council

AGENCY: The Office of Partnership and Engagement (OPE), The Department of Homeland Security (DHS).

ACTION: Notice of charter amendment.

SUMMARY: The Homeland Security Advisory Council has amended its charter.

FOR FURTHER INFORMATION CONTACT: Rebecca F. Sternhell at *HSAC@hq.dhs.gov* or at 202–891–2876.

SUPPLEMENTARY INFORMATION:

The Homeland Security Advisory Council (HSAC) was established in April 2003, under the authority of title 6 United States Code, section 451, and chartered under the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. app. This discretionary Council provides nonpartisan and organizationally independent strategic advice to the Secretary of Homeland Security on critical matters related to Homeland Security.

The HSAC has made the following three amendments to its charter.

1. The previous charter stated there was one Chair. It is now amended to provide for two co-Chairs and a Vice-Chair who will support the co-Chairs.

2. The requirement that one-third of all member terms expire each year has been removed. The charter now provides that all member term lengths will be one to three years.

3. In compliance with Executive Order 14035 on Diversity, Equity, Inclusion & Accessibility in the Federal Workforce, the amended charter includes the following language: ''In order for DHS to fully leverage broad-ranging experience and education, the Council must be diverse with regard to professional and technical expertise. DHS is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people.''

For any questions regarding the amendments, please contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Dated: December 14, 2022.

Rebecca Sternhell,

Executive Director,Homeland Security Advisory Council,Department of Homeland Security.

[FR Doc. 2022–27554 Filed 12–19–22; 8:45 am]

BILLING CODE 9112–FN–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0079]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Replacement/Initial Nonimmigrant Arrival-Departure Document

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until February 21, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0079 in the body of the letter, the agency name and Docket ID USCIS–2007–0011. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0011.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0011 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Replacement/Initial Nonimmigrant Arrival-Departure Document.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–102; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households. Nonimmigrants temporarily residing in the United States can use this form to request a replacement of a lost, stolen, or mutilated arrival-departure record, or to request a new arrival-departure record, if one was not issued when the nonimmigrant was last admitted but is now in need of such a record. U.S. Citizenship and Immigration Services (USCIS) uses the information provided by the requester to verify eligibility, as well as his or her status, process the request, and issue a new or replacement arrival-departure record. If the application is approved, USCIS will issue an Arrival-Departure Record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–102 is 3,907 and the estimated hour burden per response is .617 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,409 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,126,779.

Dated: December 9, 2022.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–27552 Filed 12–19–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–NEW]

Agency Information Collection Activities; New Collection: Outstanding Americans by Choice Nominee Questionnaire and Citizenship Ambassador Nominee Questionnaire

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until January 19, 2023.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2021–0001. All submissions received must include the OMB Control Number 1615–NEW in the body of the letter, the agency name and Docket ID USCIS–2021–0001.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on September 21, 2022, at 87 FR 57711, allowing for a 60-day public comment period. USCIS did receive 1 comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2021–0001 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* New collection.

(2) *Title of the Form/Collection:* Outstanding Americans by Choice Nominee Questionnaire and Citizenship Ambassador Nominee Questionnaire.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* NEW; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected will be used to determine eligibility for recognition as an Outstanding American by Choice or a Citizenship Ambassador.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1579 is approximately 200 and the estimated hour burden per response is 30 minutes per response. The estimated total number of respondents for the information collection G–1580 is approximately 200 and the estimated hour burden per response is 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 200 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. There is no cost burden placed on the respondents.

Dated: December 9, 2022.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–27550 Filed 12–19–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6337–N–01]

Request for Information Community Development Block Grant Disaster Recovery (CDBG–DR) Formula

AGENCY: Office of the Assistant Secretary for Policy Development and Research (PD&R), Department of Housing and Urban Development (HUD).

ACTION: Request for information.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) seeks public input on the methodology HUD uses to calculate Community Development Block Grant-Disaster Recovery (CDBG–DR) allocation amounts. This Request for Information (RFI) is to solicit feedback to inform how the Department can improve the allocation formula in the event Congress appropriates funds for CDBG–DR in the future.

DATES: Comments are requested on or before February 21, 2023. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments responsive to this Request for Information (RFI). All submissions must refer to the docket number and title of the RFI. Comments may include written data, views, or arguments. Each individual or organization is encouraged to submit only one response and to limit their submissions to 10 pages in 12-point or larger font, with a page number provided on each page. Commenters are encouraged to identify the number of the specific question or questions to which they are responding. Responses should include the name of the person(s) or organization(s) filing the comment but should not include any personally identifiable information.

There are two methods for submitting public comments.

1. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.*

2. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Council, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

HUD strongly encourages commenters to submit their feedback and recommendations electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a response, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

Public Inspection of Public Comments. All comments and communications properly submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Todd Richardson, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8138, Washington, DC 20410–0500; telephone number (202) 402–5706 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION:

I. History of CDBG–DR Formula Allocations

Congress has periodically funded CDBG–DR grants through emergency appropriations acts since 1993. The CDBG–DR program is not authorized through standing statute, but instead was created through these emergency appropriations premised on the authorized Community Development Block Grant (CDBG) program. While the CDBG–DR grants are largely subject to the statutes and regulations governing the CDBG program, each appropriation act that makes CDBG–DR funds available imposes disaster-specific requirements and includes broad waiver and alternative requirement authority that enables the Secretary to adjust requirements to support resilient recovery for an individual disaster or a set of disasters.

One component of the overall process for CDBG–DR is the method for allocating the funds. With very few exceptions, HUD has allocated funds by formula because this method is the best way to satisfy statutory requirements. The language Congress uses in appropriations acts directing HUD to develop the formula and the formula itself have evolved over time. This evolution has depended on the type of disasters, the amount of funding available, policy priorities of different Administrations, and the data available immediately after a disaster to support a speedy and equitable allocation.

After each CDBG–DR formula allocation, HUD has published as an Appendix to the **Federal Register** Notice describing the methodology used to make the allocations. Those Notices are available at this website: *https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.*

This request for information is seeking comment on the current methodology as a way to inform future allocations if and when appropriations acts make additional CDBG–DR funds available.

II. Overview of Current Methodology

As noted above, the CDBG–DR formula has evolved over time. To facilitate comment, this RFI is based on the formula used to allocate funds made available by The Disaster Relief Supplemental Appropriations Act, 2022 (Pub. L. 117–43), which was approved September 30, 2021, and funded most impacted and distressed areas resulting from major disasters occurring in 2020 and 2021.

To enable assessment of comments based on consistent language, HUD seeks comment on the methodology and choice of data for the most recent 2021 formula allocations.

Guiding Features of the Statutory Text

Each appropriation of CDBG–DR funds stands alone. The key components of the statutory language for the most recent formula allocations were:

- Purpose: ''necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation, in the most impacted and distressed areas resulting from a major disaster that occurred in 2020 or 2021 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*):''

• Eligible grantees: ''*Provided,* That amounts made available under this heading in this Act shall be awarded directly to the State, unit of general local government, or Indian tribe (as such term is defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) at the discretion of the Secretary:''

• Data: ''*Provided further,* That the Secretary shall allocate, using the best available data,''

The timing of the appropriation and statutory language permitted funding disasters that had occurred in 2020 and 2021, as well as disasters that had not yet occurred in 2021—essentially a ''go forward'' basis. The language further provided that if there were available funds, they should be allocated for both unmet needs and mitigation at the same time:

• Total unmet needs. ''[A]n amount equal to the total estimate for unmet needs for qualifying disasters under this heading in this Act:''

• Mitigation. ''*Provided further,* That any final allocation for the total estimate for unmet need made available under the preceding proviso shall include an additional amount of 15 percent of such estimate for additional mitigation:''

The most recently used formula applying this statutory direction was designed with the following goals:

• Allocate the funds as quickly as possible.

• Use best available data that is consistently collected for eligible disasters.

• Allocate directly to local governments instead of states when the disaster is concentrated in one or a small number of communities regularly ''entitled'' under the non-disaster CDBG program.

HUD is seeking comments on several specific components of the formula. This section of the Notice describes each component and Section IV will refer back to these components in identifying the specific information requested in connection with each.

Component 1. Eligible Disasters for Funding

The statutory language directs HUD to limit CDBG–DR allocations to those areas that were most impacted and distressed from a Presidentially declared major disaster. HUD has implemented this directive by limiting CDBG–DR formula allocations to grantees with major disasters that meet these standards:

(1) FEMA's Individual and Households Program (IHP) designation. HUD has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.

(2) Concentrated housing damage. HUD has limited its estimate of serious unmet housing need to counties and zip codes with high levels of damage, collectively referred to as ''most impacted areas.'' For the most recent allocation, HUD defined most impacted areas as either most impacted counties—counties exceeding $10 million in serious unmet housing needs—or most impacted Zip Codes—Zip Codes with $2 million or more of serious unmet housing needs. The calculation of serious unmet housing needs is described below.

Component 2. Basic Formula for Unmet Needs

''Unmet needs'' means that the needs are not met by other sources of financial assistance, including Federal assistance and insurance. Further, grantees are required to prevent the duplication of benefits received from other sources when carrying out eligible activities.

At the formula level, HUD considers the following other recovery resources that are directed at long-term disaster recovery: insurance, Small Business Administration (SBA) disaster loans, and FEMA IHP and Public Assistance. All of these forms of assistance are typically available for recovery before CDBG–DR is allocated. The CDBG–DR formula is designed to roughly estimate the recovery gaps not served by these sources.

The current formula does not assume that it is possible to measure all unmet needs. Instead, the formula has evolved to be a common ''measuring stick.'' By using similar data and approach to defining unmet needs and which areas are ''most impacted and distressed,'' it is possible to evaluate the funding being provided to current major disasters against allocations made for prior year disasters as ''apples-to-apples.''

The formula depends on information gleaned from the federal programs that respond immediately after a disaster occurs—FEMA and SBA—in order to calculate unmet needs for the CDBG–DR formula allocation. Unlike the other programs that are applicant driven, CDBG–DR is a block grant that allots money for grantees to develop their own plans to reflect the recovery gaps. Fundamentally, the formula is not intended to define the specific plan beyond the singular goal of notifying grantees how much funding they will receive for recovery activities.

For disasters that meet the most impacted threshold described in Component 1 above, the unmet need allocations are based on the following factors summed together:

(1) Housing Need.

(a) Repair estimates for seriously damaged owner-occupied units without insurance (excluding households with incomes above either the national median or 120 percent of area median income, whichever is greater, if they are without hazard insurance or—if a flooding event—were in the 1 percent annual chance floodplain and did not carry flood insurance) in most impacted areas after FEMA and SBA repair grants or loans; and

(b) Repair estimates for seriously damaged rental units occupied by very low-income or poverty renters in most impacted areas.

(2) Economic Revitalization Need. Repair and content loss estimates for small businesses with serious damage denied by SBA.

(3) Public Infrastructure Need. The estimated local cost share for Public Assistance Category C to G projects.

Component 3. Methods for Estimating Serious Unmet Needs for Housing

HUD used FEMA IHP program data on housing-unit damage as of February 10, 2022, to calculate unmet needs for housing for 2020 and 2021 qualifying disasters. HUD generally calculates damage estimates for unmet needs at least 60 to 90 days after the disaster is declared a major disaster to allow sufficient time for the vast majority of FEMA and SBA housing inspections to be completed.

The core data on housing damage for both the unmet housing needs and concentrated damage calculations are based on home inspection data for FEMA's IHP program and SBA's disaster loan program. HUD calculates ''unmet housing needs'' as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, SBA, and insurance.

Each of the FEMA inspected owner-occupied units are categorized by HUD into one of five categories:

• Minor-Low: Less than $3,000 of FEMA inspected real property damage.

• Minor-High: $3,000 to $7,999 of FEMA inspected real property damage.

• Major-Low: $8,000 to $14,999 of FEMA inspected real property damage and/or 1 to 3.9 feet of flooding on the first floor.

• Major-High: $15,000 to $28,800 of FEMA inspected real property damage and/or 4 to 5.9 feet of flooding on the first floor.

• Severe: Greater than $28,800 of FEMA inspected real property damage

or determined destroyed and/or 6 or more feet of flooding on the first floor.

When owner-occupied properties also have a personal property inspection or only have a personal property inspection, HUD reviews the personal property damage amounts such that if the personal property damage places the home into a higher need category over the real property assessment, the personal property amount is used. The personal property-based need categories for owner-occupied units are defined as follows:

- Minor-Low: Less than $2,500 of FEMA inspected personal property damage.
- Minor-High: $2,500 to $3,499 of FEMA inspected personal property damage.
- Major-Low: $3,500 to $4,999 of FEMA inspected personal property damage or 1 to 3.9 feet of flooding on the first floor.
- Major-High: $5,000 to $9,000 of FEMA inspected personal property damage or 4 to 5.9 feet of flooding on the first floor.
- Severe: Greater than $9,000 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To meet the statutory requirement of ''most impacted'' in this legislative language, homes were determined to have a high level of damage if they have damage of ''major-low'' or higher. That is, the unit has a FEMA inspected real property damage of $8,000 or above, personal property damage $3,500 or above, or flooding 1 foot or above on the first floor. This threshold, like most other thresholds discussed in this formula, were established for the Hurricane Sandy allocation and have been used since that time.

Furthermore, a homeowner whose flooded home was located outside the 1 percent annual chance floodplain is determined to have unmet needs if they reported damage and no flood insurance to cover that damage. For homes located inside the 1 percent annual chance floodplain, homeowners without flood insurance with flood damage with incomes below the greater of national median or 120 percent of area median income are determined to have unmet needs. For non-flood damage, homeowners without hazard insurance with incomes below the greater of the national median or 120 percent of area median income are included as having unmet needs. The unmet need categories for these types of homeowners are defined as above for real and personal property damage.

FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for rental unit damage. Each of the FEMA-inspected renter units are categorized by HUD into one of five categories:

- Minor-Low: Less than $1,000 of FEMA inspected personal property damage.
- Minor-High: $1,000 to $1,999 of FEMA inspected personal property damage or determination of ''Moderate'' damage by the FEMA inspector.
- Major-Low: $2,000 to $3,499 of FEMA inspected personal property damage or 1 to 3.9 feet of flooding on the first floor or determination of ''Major'' damage by the FEMA inspector.
- Major-High: $3,500 to $7,500 of FEMA inspected personal property damage or 4 to 5.9 feet of flooding on the first floor.
- Severe: Greater than $7,500 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor or determination of ''Destroyed'' by the FEMA inspector.

To meet the statutory requirement of ''most impacted'' for rental properties, homes are determined to have a high level of damage if they have damage of ''major-low'' or higher. That is, they have a FEMA personal property damage assessment of $2,000 or greater or flooding 1 foot or above on the first floor.

Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income less than the greater of the Federal poverty level or 50 percent of the area median income. Units occupied by a tenant with income less than the greater of the poverty level or 50 percent of the area median income are used to calculate likely unmet needs for affordable rental housing. HUD includes only these low-income renter households in its calculation for unmet rental housing needs.

The average cost to fully repair a housing unit to code for a specific disaster within each of the damage categories noted above is calculated using the median real property damage repair costs determined by SBA for its disaster loan program based on a match comparing FEMA and SBA inspections by each of the FEMA damage categories described above.

In general, FEMA inspects nearly all of the housing units that have unmet needs, but those inspections are not to estimate the total cost to bring a house back to code, but rather to determine the level of assistance required to return the home to safe and sanitary living conditions. For the most severe disasters, there is a maximum amount of FEMA Individual Assistance of $35,500 and often that is the calculated damage amount for destroyed housing units. SBA, on the other hand, only inspects the homes of survivors that apply for SBA disaster loans and might be income and credit eligible for such a loan. The overlap between the SBA inspections and FEMA inspections is what HUD uses to calculate a multiplier of expected unmet needs by FEMA damage category, as described below.

If there are 20 or more non-mobile home SBA inspections that overlap with FEMA inspections for a specific damage level for an individual disaster, the median SBA inspected amount is used as HUD's base.

Using disaster 4611 (Hurricane Ida in Louisiana) as an example:

- There were 1,763 homes that had both a FEMA inspection showing the homes had ''major-low'' damage and an SBA inspection. We establish as a ''base'' the median estimated real estate loss for those matches. In the case of DR–4611, that is $50,846.
- Next, we look at the SBA data to see how many of the uninsured homeowners were approved for an SBA loan and for how much. As the chart shows, just 5 percent of the uninsured owners with major-low damage were approved for an SBA real estate disaster loan, at a median amount of $34,500. We multiply $34,500 times 5 percent to get $1,682, which we subtract from our base multiplier. In addition, 82 percent of uninsured major-low damage owners received a FEMA repair grant at a median amount of $9,630. Thus, an additional $7,915 (82 percent × $9,630) is subtracted from the multiplier.
- If the calculated amount falls within the minimum and maximum range (see below), it is the value used for the multiplier. In addition, a ''higher'' damage category cannot get a smaller multiplier than a lower damage category.

DR–4611	Major-low damage		Major-high damage		Severe damage	
		Calculated		Calculated		Calculated
SBA median estimated real estate loss	$50,846	$50,846	$64,121	$64,121	$82,523	$82,523
SBA median amount approved	$34,500		$48,550		$63,700	
% of unmet damage approved	5%	−$1,682	5%	−$2,423	5%	−$3,401
FEMA Median Repair Grant	$9,630		$17,203		$31,740	
% of unmet damage approved	82%	*−$7,915*	78%	*−$13,376*	74%	*−$23,483*
ESTIMATED CDBG–DR UNMET MULTIPLIER		$41,249		$48,322		$55,639
N =	1,763		948		382	

The exception is for mobile homes and other manufactured housing. We have calculated a separate multiplier that is the same for all manufactured homes damaged in all disasters of 2020 and 2021. Multipliers for manufactured homes are below.

Manufactured housing	Major-low damage		Major-high damage		Severe Damage	
	Estimate	Calculation	Estimate	Calculation	Estimate	Calculation
SBA median estimated real estate loss	$60,143	$60,143	$79,621	$79,621	$92,843	$92,843
SBA median amount approved	$52,550		$75,000		$78,100	
% of unmet damage approved	4%	−$2,206	4%	−$3,000	7%	−$5,111
FEMA Median Repair Grant	$11,027		$20,997		$35,319	
% of unmet damage approved	76%	*−$8,366*	78%	*−$16,432*	57%	*−$20,137*
ESTIMATED CDBG–DR UNMET MULTIPLIER		$49,571		$60,189		$67,594
N =	889		345		468	

For disasters and damage categories that have fewer than 20 matched SBA units, there is a ''waterfall'' review. No damage category can get less than the first quartile estimated amounts for all disasters of 2020 and 2021, nor get more than the third quartile amount for all disasters of 2020 and 2021. The minimums and maximums are below.

HUD damage categories	Minimum multiplier	Maximum multiplier
Major-Low	$22,971	$57,452
Major-High	33,714	82,582
Severe	36,592	134,503

For cases not meeting the 20-unit match threshold, the median for all disasters of the same type in 2020 and 2021 is used, subject to the minimum and maximum multipliers above.

Disaster type	Multipliers by disaster type		
	Major-low	Major-high	Severe
Dam/Levee Break	$33,007	$47,078	$47,078
Earthquake	27,141	33,714	134,503
Fire	22,971	82,582	134,503
Flood	47,074	57,856	64,513

Disaster type	Multipliers by disaster type		
	Major-low	Major-high	Severe
Hurricane	$36,800	$45,952	$45,952
Severe Ice Storm	33,528	33,714	36,592
Severe Storm(s)	22,971	37,299	37,299
Tornado	52,961	82,582	134,503

Component 4. Methods for Estimating Serious Unmet Economic Revitalization Needs

Based on SBA disaster loans to businesses using data for 2021 disasters from as of date February 22, 2022, HUD calculated the median real estate and content loss by the following damage categories for each state:

- Minor-Low: real estate + content loss = below $12,000.
- Minor-High: real estate + content loss = $12,000–$29,999.
- Major-Low: real estate + content loss = $30,000–$64,999.
- Major-High: real estate + content loss = $65,000–$149,999.
- Severe: real estate + content loss = $150,000 and above.

For properties with real estate and content loss of $30,000 or more, HUD calculates the estimated amount of unmet needs for small businesses by multiplying the median damage estimates for the categories above by the number of small businesses denied an SBA loan, including those denied a loan prior to inspection due to inadequate credit or income (or a loan application decision had not yet been made), under the assumption that damage among those denied at pre-inspection have the same distribution of damage as those denied after inspection.

Using DR–4611 (Hurricane Ida) as an example:

- Column (B) below shows that 1,834 businesses applied for an SBA disaster loan, were inspected, and had combined real estate and content loss of $30,000 or more (*i.e.,* Major-Low damage or higher). Column (C) shows the median combined inspected loss estimate for each category.
- Of the 1,834 inspected with damage, column D shows 1,031 were denied an SBA disaster loan or did not yet have a decision based on the best available data at the time of the allocation.
- However, not all of the businesses applying for a disaster loan receive an inspection. An inspection will not be initiated if a business does not meet some basic SBA requirements, such as credit score. Among all business applicants for a disaster loan in DR–4611, the count of the denied not-inspected divided by the count of all denied loans equals 2.14. Thus, assuming the distribution of need of those not inspected is the same as for those inspected, we estimate the total number of businesses likely needing assistance is 2.14 (column E) times the denied inspected loans (column D).
- The calculated unmet need are the total businesses HUD estimated were denied by SBA (column F) times the SBA median real estate and content damage of those inspected (column C).

HUD damage category (A)	Number inspected (B)	Median real estate and content damage (C)	Inspected and denied (or no decision) (D)	Weighting to capture denied prior to inspection (E)	Total businesses denied (or no decision) (F = E * D)	Estimated total unmet need (G = C * F)
Major-Low	906	$42,606	496	2.14	1,059	$45,125,639
Major-High	582	90,697	326	2.14	696	63,136,289
Severe	346	236,949	209	2.14	446	*105,747,953*
Total:	1,834	.....	1,031	.....	2,202	$214,009,881

Component 5. Methods for Estimating Unmet Infrastructure Needs

Unmet infrastructure data depends on the estimating skills of FEMA Public Assistance staff. FEMA's Public Assistance program has several categories of assistance. For each of these categories, FEMA staff develop estimates to support budgeting of Disaster Relief Fund resources. These estimates are intended to reflect the cost to repair to pre-disaster conditions. Over time these estimates will change as FEMA and local governments agree on what is to be covered and not covered.

- Category A: Debris removal
- Category B: Emergency protective measures
- Category C: Roads and bridges
- Category D: Water control facilities
- Category E: Public buildings and contents
- Category F: Public utilities
- Category G: Parks, recreational, and other facilities

Categories A and B are the short-term emergency expenses, while Categories C to G are the long-term permanent work. Because CDBG–DR can only be used for unmet needs and many needs for short-term emergency expenses are met before CDBG–DR funds are allocated, the unmet need calculation only uses Categories C to G.

For each of these categories, the Stafford Act expects that the impacted communities contribute a local share. For most disasters this local share is 25 percent of the cost to repair back to pre-disaster conditions; however, based on a determination by the FEMA Administrator that a lower cost share is needed, the local cost share might be less. Whether this adjusted cost share is factored into the CDBG–DR formula depends on timing of FEMA's decision regarding a particular adjustment request and the timing of the allocation calculation.

HUD's estimate of infrastructure unmet need is simply the estimated cost share for Categories C to G using the best available data from FEMA at the time of the allocation.

To calculate 2021 unmet needs for infrastructure projects, HUD obtained FEMA cost estimates as of February 10, 2022, of the expected local cost share to repair the permanent public infrastructure (Categories C to G) to their pre-storm condition.

Component 6. Allocation Calculation

For the formula allocation, HUD calculates total unmet recovery needs for eligible disasters as the aggregate of:

- Serious unmet housing needs or owners and renters in most impacted counties (including those made eligible through zip code most impacted status);
- Serious unmet economic revitalization needs; and
- Unmet infrastructure need.

Component 7. Mitigation

Since Hurricane Sandy, CDBG–DR allocations have often included a specific component or separate allocation for mitigation or resilience activities. This calculation has also evolved over time. For disasters occurring between 2011 to 2013, mitigation/resilience was funded through a variety of means—(i) the basic formula estimating additional mitigation/resilience need was equal to 30 percent of the total estimated unmet needs; (ii) the Rebuild by Design competition, which provided additional formula allocations to support winning projects; and (iii) the National Disaster Resilience competition, which awarded

funding through a Notice of Funding Opportunity.

After Hurricanes Harvey, Irma, and Maria in 2017, Congress indicated that HUD should fund mitigation for all disasters of 2015 to 2017 with the funds remaining after allocating for 100 percent of unmet needs, proportional to the unmet needs. This same approach was used for 2018 disasters, per Congressional direction; 2019 disasters received no mitigation specific funding.

New for the 2020 and 2021 allocations was to make mitigation allocations simultaneously to unmet needs allocations at 15 percent of the unmet need calculation, per Congressional direction.

Component 8. When Appropriations Are Less Than Calculated Unmet Needs

CDBG–DR funds are usually tied to either a set of disasters or a time period. The amount appropriated can be more or less than what HUD calculates for unmet needs for areas above the threshold (as defined in Component 1). When funds are less than the calculated unmet needs, they are allocated in proportion to the unmet needs across the eligible disasters, which means the amount of unmet needs HUD funds through CDBG–DR has varied throughout the last 29 years.

Congress appropriated funds for the 2020 and 2021 disasters in September 2021 with specific instructions that the allocations for 2020 disasters be made as total unmet needs along with mitigation, within 30 days of appropriation. This direction resulted in a scenario where 100 percent of the 2020 disaster needs plus mitigation were met, but not enough resources were available to do the same for 2021 disasters. HUD managed this by allocating the remaining funds proportional to the combined unmet and mitigation needs for 2021 disasters, which resulted in each 2021 grantee receiving 60.4 percent of their total calculated unmet needs and mitigation.

Component 9. Local Allocations

Congress provides the Secretary with authority to decide whether allocations should be made directly to states, local governments, or Indian tribes. In 2020, the grants were made only to the states, while for 2021 grants were made to a combination of states and local governments. The approach for making the 2021 local allocations took place after calculating the disaster level allocation amounts at the state level. HUD calculated the share of serious unmet housing needs for entitlement areas (*i.e.,* those metropolitan cities and urban counties that receive regular CDBG grants) and proportionally allocated among the entitlement areas and the impacted areas in the state outside of entitlement areas (state balance) proportional to each area's share of serious unmet housing need in its most impacted areas. If entitlement areas represent 70 percent or more of the serious unmet housing need in a state from a particular disaster and the calculated award amount does not exceed their regular CDBG grant by 20 times or more, then local allocations were made to qualifying entitlement areas instead of the state.

Component 10. Minimum Amount To Be Spent in Most Impacted and Distressed Areas

Congress has called for CDBG–DR funds to be targeted to the most impacted and distressed areas. As noted above, the housing funds are allocated based strictly on only those counties ($10 million) or zip codes ($2 million) with enough homes with serious damage to meet the minimum dollar thresholds. The business estimates and infrastructure estimates are for the full disaster area of the state or entitlement area.

With each formula allocation, HUD specifies the areas that it has determined to be most impacted and distressed (*e.g.,* counties, zip codes) for each grantee and requires that a minimum of 80 percent of the amount allocated benefit the recovery in counties containing these areas.

Component 11. Data Provided to CDBG–DR Grantees for Developing Action Plans

Under a current Computer Matching Agreement between HUD and FEMA, HUD may enter a data sharing agreement with grantees to provide to grantees the FEMA Individual Assistance data it used to develop the formula allocations. Note that HUD provides raw FEMA data to CDBG–DR grantees and not the final data resulting from HUD's allocation calculations.

HUD does not have a Computer Matching Agreement with SBA, so grantees must work directly with SBA to obtain its data. HUD does not currently have the authority to make this data publicly available.

III. Purpose of This Request for Information

Congress has been considering various legislation that would formally authorize CDBG–DR as a program. In the event Congress authorizes the program, this Request for Information would inform that rule development.

If the program is not formally authorized, HUD anticipates that Congress will likely continue to make supplemental appropriations for disasters and that they would expect HUD to continue to allocate funds by formula. This Request for Information could inform improvements to the allocation formula in the event Congress appropriates funds for CDBG–DR in the future.

IV. Specific Information Requested

General Questions

Question 1. Given the policy objective of quickly allocating funds so that state and local officials can speedily develop programs to address their most serious unmet needs for disaster recovery, are there other ways HUD might allocate CDBG–DR funds beyond the methodology described above?

Discussion. HUD has long relied on the data from FEMA and SBA to make formula calculations. With advances in technology and other public and private data sources, there may be other approaches HUD could consider.

Question 2. If Congress appropriates funds in advance of disasters occurring in a specified time period, should disasters be funded as soon as practicable after they occur, or should HUD hold back funding until all disasters in a year are known so each receives an equal share of the remaining funding relative to their needs?

Discussion. For the 2020 and 2021 disasters, at the direction of Congress, HUD fully funded the disasters of 2020 and then partially funded all of the eligible 2021 disasters due to limited funding.

The remaining questions refer back to the current formula components discussed in Section II of this request for information.

Component 1. Specific Questions. Eligible Disasters for Assistance

Question 3. How should HUD determine the disasters that are eligible for CDBG–DR assistance and the areas that are most impacted and distressed from a Presidentially declared major disaster? Is HUD's approach effective or including rural and Tribal areas that are most impacted and distressed? Given the complexity of program implementation, should a grantee not only meet most impacted and distressed standard but also have an aggregate amount of unmet need above a minimum grant threshold?

Discussion. We are seeking comments on if the current methodology is overly targeted or not targeted enough in terms of disasters that should receive these

funds. In general, the motivating disasters that Congress appropriates funding for tend to be very large disasters that communities are otherwise financially unable to address. The current methodology has grown more inclusive over time such that many disasters that might be considered smaller disasters are now receiving funding in addition to larger disasters. CDBG–DR funds often require a great deal of local investment in new management and financial capacity for the funds to be used effectively. HUD experience has been that communities with relatively small disasters face significant challenges in establishing new recovery programs.

In addition, HUD's current definition for concentrated housing damage is a measure of damage to homes occupied by very low-income renters and uninsured homeowners. For some disasters, this approach is consistent with lower income areas, while for other disasters like flooding and earthquake events, this approach targets large numbers of likely higher income households without insurance for those specific disasters. As such, the CDBG–DR requirement for serving 70 percent low-and-moderate income (LMI) households can become difficult for grantees if they have largely been funded based on serious damage of higher income homeowners that are eligible for, but did not receive, SBA disaster loans.

Items of specific interest:

- Should there be additional thresholds that capture concentration of damage? Examples of such thresholds might include a minimum percentage of impacted homeowners or renters in a Census Tract, a minimum percentage of LMI population impacted by the event, or a minimum percentage of LMI households residing in the impacted area prior to the event.
- Should the damage threshold for ''most impacted'' serious housing damage be raised so that it excludes ''major-low''?
- Are serious unmet housing needs for counties at $10 million or zip codes at $2 million the appropriate thresholds for ''most impacted and distressed''? Do disaster thresholds based on monetary damages disadvantage certain households and might there be a different way to determine most impacted and distressed areas? Particularly as it relates to rural and Tribal areas.
- Should the income of the area(s) impacted be factored into determining eligibility? For example, HUD could include only data on damage in low-and-moderate income areas when calculating most impacted eligibility.

Component 2. Specific Questions. Basic Formula for Unmet Needs

Question 4. Are there are other unmet needs that HUD should be factoring into the formula calculation beyond housing, economic revitalization, and infrastructure?

Discussion. Questions under later components speak to the specific data and approach for calculating housing, economic revitalization, and infrastructure unmet needs, which relate to the CDBG–DR purposes of ''restoration of infrastructure and housing'' and ''economic revitalization.'' This question is more basic and could reflect the other purposes of CDBG–DR grants, including the more general purposes of ''disaster relief'' and ''long-term recovery''. We note that CDBG–DR appropriations acts typically dictate how HUD will calculate the additional allocation amount for the ''mitigation'' purpose, but respondents may also include comments related to calculating mitigation allocations. HUD notes that any portion of the CDBG–DR grant can be used for mitigation/resilience purposes, beyond the amount calculated as the mitigation plus up. In answering this question, respondents should indicate what data HUD might consider. Note that the data generally needs to be consistently available for all areas and disasters.

Question 5. Should HUD establish a minimum number of days to have passed after a Presidential Disaster declaration, or some other metric, before calculating unmet needs?

Discussion. The current formula uses administrative data from FEMA and SBA that takes time for both agencies to collect as they implement their programs. Key elements of their data include home inspections and eligibility determinations. As a rule of thumb, HUD has generally held off allocations for 60 to 90 days after a disaster before calculating unmet needs. Is there some other metric HUD should use before making allocations?

Component 3. Specific Questions. Housing Unmet Needs

Question 6. Should HUD continue to exclude certain homeowners with incomes above 120 percent of area median income from consideration of unmet needs?

Discussion. The current formula is built around the idea that homeowners with higher income should carry hazard insurance in all cases and flood insurance if in a floodplain.

Question 7. For homeowner occupied units, in addition to uninsured households, should HUD consider the unmet need of insured applicants denied SBA loans? Is there another data source or characteristic HUD should consider to measure the unmet needs of insured applicants?

Discussion. Increasingly we are informed that insurance is inadequate for recovery and mitigation and limiting the allocation to just the uninsured homeowners is leaving a large recovery gap in assistance for lower income households. FEMA Individual Assistance data are limited in some disasters because inspections are not completed for insured properties. A potential additional source of data are households that are denied SBA loans, similar to the approach used for economic revitalization unmet needs in component 4.

Question 8. For homeowner occupied units, are the FEMA Verified Loss breaks the correct breaks for assessing disaster severity? Should these be modified to reflect FEMA program updates?

Question 9. Is there an alternative to personal property damage that HUD might consider for measuring damage to rental housing? For renter occupied units, are the FEMA personal property breaks currently used the right breaks for assessing disaster severity? Should these be modified to reflect FEMA program changes?

Discussion. HUD uses personal property damage as a proxy for likely housing unit damage. FEMA benefit calculations have changed over time and its methodology for both determining amount of FEMA Verified Loss for homeowners and personal property loss has varied from disaster to disaster. The thresholds HUD uses were developed over a decade ago.

Question 10. For renter occupied units, is it a reasonable assumption that damage to housing occupied by renters less than the greater of poverty or 50 percent of AMI reflects a likely loss of affordable housing?

Discussion. The data HUD gets for the formula allocation has no information on insurance coverage for landlords, so HUD has established a series of proxies for likely loss of affordable housing. CDBG–DR is generally intended to target households below 70 percent of AMI. The first proxy is measuring rental damage (discussed above) using personal property damage as a proxy for unit damage; and the second proxy is the unit being occupied by a renter less than the greater of poverty or 50 percent of AMI with the assumption that if housing either will not be replaced, or

if it is replaced it will no longer be affordable after repair, and thus there is a need for replacement affordable housing.

Question 11. Is there a simpler approach for calculating the multipliers used for unmet needs?

Discussion. HUD's matching to SBA data is generally only effective for very large disasters; most other disasters are subject to the disaster specific multipliers. HUD could indicate on its website each year a multiplier schedule by disaster type. A downside to this approach is that it does not capture local variation in cost that the current approach does capture for large disasters. The upside is more transparency and a simpler formula.

Question 12. Are there other options—beyond using the homeowner multiplier—for how the multiplier for rental units could be calculated when determining unmet housing needs?

Discussion. HUD currently uses the same multiplier for rental units as owner-occupied units in the same damage category. The goal for allocating the funds for owners and renters, however, are very different. The goal for homeowners is to help them repair their home so they can return to that home or cover some of the cost for buyouts if needed. For renters, there is a presumption that damaged very low-income renter housing either will not be repaired, or, if it is, it will no longer be as affordable as pre-disaster. As such, the formula reflects an assumption that the most likely use of funds to support recovery of rental housing markets is to support creation of housing affordable for renters with income less than 50 percent of AMI.

Component 4. Specific Questions. Methods for Estimating Serious Unmet Economic Revitalization Needs

Question 13. Are there other factors and/or data sources HUD might consider beyond SBA business loan denials when determining unmet economic revitalization needs?

Discussion. Examples for consideration include taking into account a community's pre-disaster economic distress or the nature of the disaster (*e.g.,* existing economic distress can lead to significant displacement during a disaster that may delay economic recovery) or data from other federal agencies such as the Economic Development Administration at the Department of Commerce.

Question 14. Should HUD establish a higher or lower standard for inclusion of businesses with serious unmet need?

Discussion. HUD has not changed the damage thresholds in over a decade.

Question 15. How can HUD better target the calculation of unmet economic revitalization needs for lower income households and other vulnerable populations in the most impacted and distressed areas?

Discussion. The current method is targeting funds to businesses not meeting income or credit requirements of SBA. It does not take into account the location of the business, such as if it is located in a low-mod area.

Component 5. Specific Questions. Methods for Estimating Unmet Infrastructure Needs

Question 16. Are there other data or factors HUD might consider for measuring unmet infrastructure needs?

Should HUD establish a minimum amount of time (*e.g.* not less than 60 days) after a disaster to calculate CDBG–DR allocations so they are based on consistent, accurate FEMA PA damage estimates?

Discussion. HUD may be unaware of other sources of data on public infrastructure needs besides FEMA Public Assistance. Further, the current approach tends to provide more for places that had more infrastructure pre-disaster, which may disadvantage communities with inadequate infrastructure pre-disaster due to the low incomes or historical disinvestment in the community pre-disaster.

Question 17. How can HUD better target the calculation of unmet infrastructure needs for lower income households and other vulnerable populations in the most impacted and distressed areas? Should HUD pro-rate the estimate of infrastructure needs based on the fraction of damaged homes with unmet needs located in LMI areas?

Discussion. The current methodology for determining infrastructure need does not factor in the income or other demographics of the impacted area. CDBG–DR must be predominantly used for activities that benefit low- and moderate-income persons. For infrastructure investments to satisfy the low-mod area benefit national objective criteria, usually the investment needs to be in a primarily residential area where at least 51 percent of the residents are low- and moderate-income persons. Some grantees in the past have had difficulty meeting the low-mod benefit requirements for their infrastructure funds.

Component 6. Specific Questions. Allocation Calculation

Question 18. How can CDBG–DR allocation methodology be modified to allocate resources equitably and adequately address disaster-related needs, including the needs of the most impacted, vulnerable populations, and underserved communities?

Component 7. Specific Questions. Mitigation

Question 19. How should HUD factor mitigation into the CDBG–DR formula? Should the mitigation multiplier be different by type of disaster?

Discussion. Congress has tried several different methods; feedback on grantee and subgrantee experiences with HUD's different ways of implementing those methods would be beneficial. The cost to mitigate against future risk needed in a fire zone is very different than mitigation needed in flood zone. Using a single multiplier such as 15 percent does not take this into consideration.

Question 20. Should there be a separate calculation of mitigation needs that is independent of the unmet need calculation? If so, what should that calculation be?

Discussion. Depending on the disaster, mitigation and potential resilience costs may be significantly more or less than a simple proportional allocation relative to unmet needs.

Component 8. Specific Questions. Amount of Funding

Question 21. If resources are limited, should a certain type or types of unmet need be prioritized over others in determining an allocation? For example, housing only.

Discussion. The current policy of insufficient funding is to allocate proportional to the unmet needs of eligible grantees or to fully fund disasters as they occur until funding runs out leaving later disasters with no funding. This question seeks comments on how to allocate funding when less is appropriated than calculated unmet needs.

Component 9. Specific Questions. Allocations to Local Governments and Indian Tribes

Question 22. What criteria should HUD use when determining if an allocation should be made directly to local governments and Indian tribes (as that term is defined under section 102(a) of the Housing and Community Development Act of 1974) versus the full allocation to a state government? Should HUD take into account grantee capacity when deciding on either providing a direct grant and/or amount of the grant?

Discussion. The research on this topic is inconclusive [1]. Local and tribal

[1] Martin, Carlos, *et al.* ''Housing Recovery and CDBG–DR: A Review of the Timing and Factors

Continued

government leaders often petition HUD for direct allocations while state leaders argue there is greater efficiency, management capacity, and more program consistency when it is a single allocation to the state.

Question 23. Are there revisions to HUD's allocation methodology that should be considered to capture tribal recovery needs more effectively? Please see the RFI requesting information on the CDBG–DR program published elsewhere in today's **Federal Register**.

Component 10. Specific Questions. Minimum Amount To Be Spent in Most Impacted Areas

Question 24. Currently at least, 80 percent of CDBG–DR funds must be spent to benefit the most impacted and distressed area designated by HUD, and up to 20 percent may be spent in area designed by the grantee as most impacted and distressed areas; is this the right amount?

Discussion. The 80 percent standard was based on analysis of how funds were allocated for allocations to 2011 disasters prior to Hurricane Sandy funding. The standard has not changed since that time. Note that 100 percent of CDBG–DR grants must be expended in a most impacted and distressed area, with a minimum of 80 percent in HUD defined most impacted areas and up to 20 percent in areas identified by grantees. Please see the RFI requesting information on the CDBG–DR program published elsewhere in today's **Federal Register** that solicits public comment on this topic.

Component 11. Specific Questions. Data Provided to CDBG–DR Grantees for Developing Action Plans

Question 25. In addition to the raw data provided by FEMA to HUD for the formula calculation, should HUD provide to CDBG–DR grantees and the public a set of pre-scripted tables and maps to assist with development of Action Plans? What other information would be helpful for developing Action Plans?

Discussion. A significant amount of analysis goes into developing the formula allocations. HUD could prepare some basic tables and maps to inform the public and grantees on who was impacted, where they were impacted, and what the nature of the damage is.

Associated with Housing Activities in HUD's Community Development Block Grant for Disaster Recovery Program.'' HUD User. April 2019. *https://www.huduser.gov/portal/publications/HousingRecovery-CDBG-DR.html.*

V. Response Guidance

For comments submitted by mail responses should not exceed 50 pages. Please provide the following information at the start of your response to this RFI: Company/institution name (if applicable); contact information, including address, phone number, and email address. Do not submit Confidential Business Information (CBI) in your response to this RFI. Responses identified as containing CBI will not be reviewed and will be discarded.

Please identify each answer by responding to a specific question or topic if applicable. You may answer as many or as few questions as you wish. To help you prepare your comments, please see the *How Do I Prepare Effective Comments* segment of the Commenting on HUD Rules web page, *https://www.hud.gov/program_offices/general_counsel/Commenting-On-HUD-Rules#1.* While that web page is written for commenting on regulatory proposals, these tips are generally applicable to this RFI.

Solomon J. Greene,

Principal Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2022–27548 Filed 12–19–22; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6336–N–01]

Request for Information for HUD's Community Development Block Grant Disaster Recovery (CDBG–DR) Rules, Waivers, and Alternative Requirements

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Request for information.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) seeks public input to strengthen and improve requirements for entities receiving and implementing Community Development Block Grant Disaster Recovery (CDBG–DR) funding. This Request for Information (RFI) is to solicit feedback to inform how the Department can modify, expand, streamline, or remove CDBG–DR rules and requirements with the goals of expediting long-term resilient recovery, reducing, or eliminating barriers for impacted beneficiaries, ensuring equitable community recovery, and simplifying compliance for CDBG–DR grantees within its statutory authority. Additionally, HUD seeks information and recommendations to reduce the administrative burden for those receiving and implementing CDBG–DR funding after a disaster to accelerate the availability of assistance to disaster survivors and affected communities.

DATES: Comments are requested on or before February 21, 2023. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments responsive to this Request for Information (RFI). All submissions must refer to the docket number and title of the RFI. Comments may include written data, views, or arguments. Each individual or organization is encouraged to submit only one response and to limit its submission to 10 pages in 12-point or larger font, with a page number provided on each page. Commenters are encouraged to identify the number of the specific question or questions to which they are responding. Responses should include the name of the person(s) or organization(s) filing the comment but should not include any personally identifiable information.

There are two methods for submitting public comments.

1. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *https://www.regulations.gov.*

2. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

HUD strongly encourages commenters to submit their feedback and recommendations electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a response, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *https://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

Public Inspection of Public Comments. All comments and communications properly submitted to HUD will be available for public inspection and copying between 8 a.m.

and 5 p.m. EST weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of all comments submitted are available for inspection and downloading at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Jessie Handforth Kome, Director, Office of Block Grant Assistance, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410–0500, telephone number (202) 708–3587. Facsimile inquiries may be sent to Ms. Kome at (202) 708–0033. (The telephone and fax numbers are not toll-free numbers). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Email inquiries may be sent to *DRSIPolicyUnit@hud.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Overview of CDBG–DR Funding

Since 1993, Congress has periodically funded CDBG–DR grants through emergency supplemental appropriations acts. CDBG–DR funding is not authorized through standing statute, but instead was created through these emergency appropriations acts premised on the annual (non-disaster) CDBG program. While the grants are largely subject to the statutes and regulations governing the non-disaster CDBG programs, each appropriations act that has made CDBG–DR funds available has provided the Department with the authority to waive those requirements and establish alternative requirements, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. This broad authority enables the Secretary to establish waivers and alternative requirements to support resilient recovery from individual disasters or a particular group of disasters.

HUD is seeking to adopt a revised process for implementing future CDBG–DR grants to assist potential CDBG–DR grantees (*i.e.,* states, local governments, and Indian tribes (as that term is defined in section 102(a)(17) of the Housing and Community Development Act of 1974) (HCDA)), recipients, and the public in planning for the use of the funding. To achieve this goal, HUD intends to publish a comprehensive notice that would standardize the CDBG–DR allocation and implementing notice process and inform potential CDBG–DR grantees, recipients, and other stakeholders about each phase of the CDBG–DR grant process (*i.e.,* a ''CDBG–DR Universal Notice''). The planned CDBG–DR Universal Notice would address a number of aspects of the CDBG–DR funded disaster recovery and mitigation process including: 1) grantees' pre-award submissions; 2) steps and timelines; 3) action plan development, submittal, and implementation; and 4) applicable waivers and alternative requirements. The objective of the planned CDBG–DR Universal Notice would be to outline comprehensive and uniform requirements that will govern subsequent allocations of supplemental CDBG–DR funding to provide disaster recovery assistance in a more predictable, equitable, and timely way.

When Congress enacts new supplemental appropriations of CDBG–DR funding, HUD will incorporate the applicable provisions of the CDBG–DR Universal Notice, to the extent the CDBG–DR Universal Notice is consistent with the appropriations act, in a separate published notice (the ''Allocation Announcement Notice''). Each Allocation Announcement Notice will announce the new CDBG–DR allocations and impose the applicable waivers and alternative requirements in the CDBG–DR Universal Notice for the subject CDBG–DR grants. Each Allocation Announcement Notice will also modify the CDBG–DR Universal Notice as necessary to comply with any new statutory requirements. For example, a Public Law may allow grantees receiving an award for a specific disaster year to access funding for program administrative costs prior to the Secretary's certification of financial controls and procurements processes, and adequate procedures for proper grant management. If a new provision like this is included in a CDBG–DR appropriations act that is different from prior appropriations acts, the requirements governing the provision would not be covered in a CDBG–DR Universal Notice and would need to be addressed in an Allocation Announcement Notice (amending the CDBG–DR Universal Notice, if necessary). The Department modeled this process in the Allocation Announcement Notices published on February 3, 2022 (87 FR 6364) and May 24, 2022 (87 FR 31636) for grantees receiving funds for disasters occurring in 2020 and 2021 and included a CDBG–DR Consolidated Notice as an appendix.

Objectives of a CDBG–DR Universal Notice

The focus of CDBG–DR grant funds is to address long-term housing recovery and other needs including infrastructure, economic revitalization, and mitigation activities, particularly serving the most vulnerable communities. In its FY2023 budget proposal, the Administration has articulated principles for these grants, finding that CDBG–DR is uniquely positioned to advance equity and prioritize disadvantaged communities, turning disaster-impacted neighborhoods that have historically faced underinvestment into resilient, healthy, sustainable, thriving communities. CDBG–DR's role in long-term housing recovery prioritizes and integrates resilient investments that mitigate the effects of future natural disasters, which will significantly reduce future fiscal and social costs.

Through a Universal Notice, HUD seeks to:

- Outline a uniform set of waivers and alternative requirements designed for future allocations of CDBG–DR funds, including all timelines, documentation, and other requirements for pre-award grantee submissions;
- Encourage intentional and early coordination among potential CDBG–DR grantees, other agencies/departments at the state or local level, and other regional or local planning efforts to better align disaster recovery assistance with the goals of regional development plans, resilience plans, and state and local Hazard Mitigation Plans;
- Consistent with the principles of the Administration's Justice40 initiative, increase opportunities for planning to expand awareness of the availability of disaster recovery assistance and to advance equitable distribution of assistance, including community engagement efforts, and planning for targeted assistance to residents of disadvantaged communities (*e.g.,* a Promise Zone, a Neighborhood Revitalization Strategy Area) that are underserved, members of protected classes under fair housing and civil

rights laws (*i.e.,* race, color, national origin, religion, sex—which includes sexual orientation and gender identify—familial status, and disability), and other vulnerable populations who have been historically marginalized and can be adversely affected by disasters that often exacerbate existing inequities (*e.g.,* racial and ethnic minorities, the elderly, persons experiencing homelessness, etc.); and

• Improve long-term community resilience by fully integrating resilience planning and hazard mitigation activities into disaster recovery to reduce the impacts of climate change and future disasters, encourage nature-based recovery efforts (focusing on healthier water and air, and effective debris and waste management), address environmental justice concerns associated with disaster recovery efforts, and address recovery needs for accessible, resilient, and affordable housing for low- and moderate-income persons.

• Assist in making measurable progress to reduce fiscal exposure to climate change and its effects for the Federal government, states, and local governments. This effort is consistent with the High-Risk Report in 2019, in which the General Accountability Office (GAO) noted that ''numerous studies have concluded that climate change poses risks to many environmental and economic systems and creates a significant fiscal risk to the federal government.'' More broadly, the notice will be designed to support the policy of the Administration to combat the climate crisis by implementing a government-wide approach that: reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

II. Purpose of This Request for Information

The purpose of this RFI is to solicit feedback to inform how the Department can strengthen CDBG–DR requirements and to accelerate the availability of assistance to disaster survivors, consistent with the principles of the Administration as outlined in its FY2023 budget proposal in support of CDBG–DR authorization. HUD seeks information and recommendations to expedite long-term recovery, reduce or eliminate barriers, ensure equitable outcomes, and simplify compliance for CDBG–DR grantees within its statutory authority.

To expedite long-term recovery, Congress has historically authorized HUD to modify certain requirements by establishing waivers and alternative requirements, except for requirements related to fair housing, nondiscrimination, labor, and the environment. However, HUD may not waive or establish an alternative requirement on any provision established by an appropriations act. Therefore, HUD is most interested in proposed changes that are within its statutory authority provided by Public Law 117–43, the appropriations act that funded CDBG–DR assistance for 2020 and 2021 disasters. Comments that seek to identify statutory limitations that delay or hinder recovery are also welcome and HUD may submit these comments to Congress for consideration.

HUD encourages participation from disaster survivors, Federal, state, local, and Tribal governments, nongovernmental organizations, the private sector including small businesses, and other stakeholders (*e.g.,* emergency managers; renters; homeowners; multifamily-housing owners; public-housing agencies; academic researchers; urban planners; engineers; fair housing professionals; disaster recovery professionals; and organizations that advocate for affordable housing, members of protected classes, vulnerable populations, and underserved communities).

III. Specific Information Requested

While HUD welcomes comments on all issues associated with streamlining and accelerating the implementation of CDBG–DR funds, HUD is particularly interested in receiving information, data, analyses, and recommendations on the topics outlined below, which focus on changes that are generally within HUD's statutory authority. The appropriations acts typically authorize the Secretary to waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers of CDBG–DR funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. The list of questions below is a non-exhaustive list and is intended to assist commenters in formulating their responses. This list is not intended to limit the issues or topics that commenters may address. HUD has organized this list into a series of questions to solicit targeted feedback regarding specific topics.

1. Reducing Administrative Burden and Accelerating Recovery.

a. Are there CDBG–DR rules, [1] waivers, or alternative requirements that are unnecessarily complicated? Please provide recommendations for how such rules and requirements should be revised.

b. Are there CDBG–DR rules, waivers, or alternative requirements that could be streamlined or removed to enable grantees to accelerate recovery? Please provide recommendations for alternative processes that would remove barriers, obstacles, and delays.

c. Are there CDBG–DR rules, waivers, or alternative requirements that can be modified, expanded, or removed to reduce administrative burden for beneficiaries?

d. Are there CDBG–DR rules, waivers, or alternative requirements that could be streamlined or removed to accelerate recovery for grantees receiving smaller awards, or grantees that are funding primarily small and rural communities? For example, in a **Federal Register** notice published on May 24, 2022, HUD identified any grant under $20,000,000 as a smaller grant award. Going forward, is $20,000,000 an appropriate threshold?

e. Should there be a minimum allocation threshold for CDBG–DR grant awards? If so, what should the minimum allocation threshold be or be based on?

f. Recent appropriations allow grantees to access funding for program administrative costs prior to the Secretary's certification of financial controls and procurement processes and adequate procedures for proper grant management. Grantees have used these administrative funds primarily for the development of the action plan (*e.g.,* procuring contractors, increasing capacity, facilitating public participation, etc.). Aside from creating the action plan for program administrative costs, are there other approaches that HUD should consider to promote proactive coordination with other disaster response agencies before a CDBG–DR grant is executed?

g. Are there any activities that are currently ineligible in CDBG and are either not funded by other disaster recovery agencies or not fully funded, but that are so critical to meeting recovery-related needs that it may be important to permit them through an

[1] While CDBG–DR funds do not have disaster-specific regulations, in past **Federal Register** notices, HUD has imposed applicable State and Entitlement CDBG regulations at 24 CFR part 570 on the use of CDBG–DR funds and issued any necessary waivers and alternative requirements of these regulations.

alternative requirement to advance a more resilient and equitable recovery?

h. Are there CDBG–DR rules, waivers, or alternative requirements that should be revised to better align with federal disaster relief programs implemented by the Federal Emergency Management Agency (FEMA), the U.S. Small Business Administration, the U.S. Army Corps of Engineers, or other Federal agencies? Are there CDBG–DR rules, waivers, or alternative requirements that should be adopted by other Federal disaster recovery agencies?

i. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–5207) (Stafford Act) and CDBG–DR appropriations acts require HUD and its grantees to coordinate with other Federal agencies that provide disaster assistance to prevent the duplication of benefits (DOB). How can HUD and other Federal agencies that provide disaster assistance make it easier to comply with DOB requirements?

j. What data should grantees report to HUD to improve public transparency and to better allow evaluation of the use of CDBG–DR funds consistent with the principles of the Administration's Justice40 initiative to increase federal support for disadvantaged communities (*e.g.,* requiring grantees to report to HUD on the race and ethnicity of those who apply for assistance but are not ultimately served)? How might the administrative burden of reporting be reduced?

k. What types of technical assistance should HUD offer grantees to support a timely, equitable, resilient, and successful recovery? Are there phases of CDBG–DR grants (*e.g.,* initial administrative work, action plan development, program implementation, etc.) where providing more intensive technical assistance would be more effective? What types of technical assistance should States offer local government subrecipients to support a timely, equitable, resilient, and successful recovery?

l. What types of technical assistance or other measures should HUD offer to better assist grantees in preventing and identifying potential contractor fraud and to strengthen the ability of grantees to assist beneficiaries when they are subject to contractor fraud?

m. What mitigation techniques or requirements could HUD employ to enhance grantee capacity to comprehensively assess the likelihood of potential fraud risk and to otherwise detect and prevent fraud in grantee programs?

2. Establishing Priorities

a. Should CDBG–DR rules, waivers, or alternative requirements be written to 1) encourage or require grantees to first address disaster recovery housing needs prior to other recovery needs (*e.g.,* infrastructure), or 2) encourage or require grantees to invest in whole community recovery in proportion to its unmet recovery need (*e.g.,* housing, infrastructure, economic revitalization, and mitigation)?

b. If CDBG–DR should encourage grantees to invest in whole community recovery, what policy incentives would be most effective to encourage grantees to invest in whole community recovery in proportion to its unmet recovery need?

c. What CDBG–DR rules, waivers, or alternative requirements, if any, should be modified or eliminated so that grantees are prioritizing assistance to low- and moderate-income persons and areas, vulnerable populations, and underserved communities?

d. How can HUD assist grantees in using data-driven information to better align their proposed recovery programs and activities with unmet recovery needs? (HUD is also seeking public comment on how it defines and determines unmet recovery needs in a separate request for information. Please see the RFI requesting information on the CDBG–DR allocation formula published elsewhere in today's **Federal Register**.)

e. How can CDBG–DR rules, waivers, or alternative requirements be modified or eliminated to encourage greater levels of investment in infrastructure projects that provide the greatest benefit to impacted low- and moderate-income areas?

f. What CDBG–DR rules, waivers, or alternative requirements, if any, should be modified or eliminated so that grantees carry out activities to support economic revitalization for underserved and economically distressed communities?

g. How can CDBG–DR rules, waivers, or alternative requirements be modified or eliminated to better address the unmet recovery and mitigation needs of affordable rental housing, public housing, and housing for vulnerable populations?

h. How can CDBG–DR rules, waivers, or alternative requirements be modified or eliminated to allow grantees to leverage private capital (*e.g.,* bridge loans) to start the long-term recovery process immediately after a disaster?

3. Understanding the Requirements for Most Impacted & Distressed (MID) Areas

Currently, CDBG–DR appropriations acts require all funds to be used in a most impacted and distressed (MID) area resulting from a major disaster. Current rules attempt to balance requirements in the appropriations acts to make allocations to HUD-identified MID areas while also providing grantees with flexibility to capture additional areas that the grantee can determine is also a MID area, using data or information that is not available to HUD.

a. What CDBG–DR rules, waivers, or alternative requirements, if any, should be modified or eliminated to clarify the differences between the HUD-identified MID area and the grantee-identified MID area?

b. Are there specific parameters, data, or other criteria that should be established by HUD for a disaster-impacted community to qualify as a grantee-identified MID Area? Please provide recommendations for specific parameters, criteria, or limitations that should be established.

c. Should HUD continue to allow for the use of CDBG–DR funds to benefit grantee-identified MID areas? How, if at all, should HUD adjust the requirements for the balance of assistance between HUD-identified and grantee-identified MID areas?

4. Developing the Action Plan

a. What CDBG–DR rules, waivers, or alternative requirements relating to the action plan, if any, should be modified or eliminated to capture unmet disaster recovery needs or mitigation needs more accurately?

b. HUD currently requires grantees to post an action plan for 30 days to solicit public comment and to host at least one public hearing—is this enough time to solicit meaningful public feedback? Should HUD consider increasing this time or the number of public hearings required for initial action plans and/or for later, substantial amendments to the action plan to achieve meaningful community engagement?

c. What enhancements should HUD consider to improve a grantee's experience with the HUD's Disaster Recovery Grant Reporting (DRGR) system and data reported by grantees, in particular the Public Action Plan module?

5. Advancing Equity

a. What CDBG–DR rules, waivers, or alternative requirements, if any, should be modified or eliminated to ensure grantees equitably allocate resources

and adequately address disaster-related needs of the most impacted, vulnerable, and underserved communities?

b. What CDBG–DR rules, waivers, or alternative requirements, if any, should be modified or eliminated to ensure that grantees advance equity in the timing of who is able to receive assistance and the amount of assistance available and received? For example, by prioritizing programs to assist homeowners over those that assist renters, a grantee may not have enough funding to meet the unmet needs of renters, including those less able to prepare for, respond to, and recover from the impacts of disasters.

c. What CDBG–DR rules, waivers, or alternative requirements, if any, should be modified to further prevent an ''unjustified discriminatory effect'' (*i.e.,* interests can be served by another practice with a less discriminatory effect) based on race or other protected class in the implementation of CDBG–DR funding to address disaster-related unmet needs (recognizing that HUD has no authority to waive or specify alternative requirements for statutes and regulations related to fair housing, nondiscrimination, labor, or the environment)?

d. What barriers impede grantees' ability to allocate resources equitably? What barriers do protected class groups, vulnerable populations, and other underserved communities face in accessing, applying for, and receiving CDBG–DR assistance in a timely manner?

e. What additional guidance, data, or support can HUD provide to help grantees comply with fair housing and civil rights requirements and allocate resources equitably across housing types?

f. What challenges do grantees face in complying with their obligation to ensure meaningful access for individuals with limited English proficiency or effective communication for individuals with disabilities? What tools or resources could HUD provide to facilitate compliance with these obligations?

g. Congress has recently identified Indian tribes as eligible CDBG–DR grantees but there are currently no Indian tribes in HUD's CDBG–DR portfolio. Are there revisions to HUD's CDBG–DR policies that should be considered to capture tribal recovery needs more effectively? (Please also see the request for information from the public on the need for any revisions to HUD's allocation formula to better capture tribal recovery needs published elsewhere in today's **Federal Register**.)

h. What barriers impede grantees' ability to design and utilize buyout programs, including incentives, to best serve protected class groups, vulnerable populations, and other underserved communities? What CDBG–DR rules and requirements, if any, should be modified or eliminated to ensure that grantees advance equity in their community-driven relocation activities?

6. Incorporating Mitigation and Resilience Planning

a. Are there CDBG–DR rules, waivers, or alternative requirements, and/or policies that prevent or limit grantees' focus on mitigating the impacts of climate change, particularly for those areas disproportionately impacted by climate change? If so, please describe.

b. How can CDBG–DR's rules, waivers, or alternative requirements or policies be modified or eliminated to encourage grantees to use CDBG–DR funds to invest in activities that incorporate resilience and mitigate the impacts of climate change?

c. What more can HUD do to encourage grantees to integrate long-term disaster recovery and mitigation planning into other existing federal, state, and local planning requirements?

7. Replacing Disaster-damaged Housing Units, Minimizing Displacement, and Incentivizing Affordable Housing Development

Should CDBG–DR notices continue to waive and provide alternative requirements for the one-for-one replacement housing requirements at section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (i) and (d)(3)) of the HCDA and 24 CFR 42.375 for disaster-damaged owner-occupied lower-income dwelling units that meet the grantee's definition of ''not suitable for rehabilitation?'' To expedite recovery, HUD waives this requirement for disaster-damaged owner-occupied units that meet the grantee's definition for ''not suitable for rehabilitation.'' CDBG–DR grantees have the discretion to define ''not suitable for rehabilitation,'' but must include their definition in their action plan for disaster recovery.

a. How can CDBG–DR rules, waivers, or alternative requirements be modified or eliminated to ensure that grantees are mitigating natural hazard risks (*e.g.,* sea level rise, high winds, storm surge, flooding, volcanic eruption, and wildfire risk), while also minimizing displacement of members of families, individuals, or entities such as businesses, farms, or nonprofit organizations from their homes and neighborhoods?

b. What additional relocation, acquisition, and replacement housing waivers and alternative requirements should HUD consider that would assist and expedite community efforts to reduce future risk while minimizing displacement and ensuring fair treatment and protections to those whose property is acquired or who must move due to a CDBG–DR funded activity? For example, recent CDBG–DR notices waive (and provide alternative requirements to) several provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) (URA), section 104(d) of the HCDA, and related CDBG programmatic requirements.

8. Modifying Green and Resilient Building Codes and Standards.

a. Should the Department impose construction standards that require the use of CDBG–DR funds to adhere to current editions of the International Building Code (IBC), International Existing Building Code (IEBC), International Residential Code (IRC), International Wildland-Urban Interface Code (IWUIC), International Plumbing Code (IPC), International Mechanical Code (IMC), International Fuel Gas Code (IFGC), International Fire Code (IFC), ICC 500–14, ICC/NSSA Standard on the Design and Construction of Storm Shelters, and ICC 600–14 Standard for Residential Construction in High-wind Regions?

b. Should HUD better align its building code requirements for CDBG–DR and CDBG–MIT with those required by FEMA or other Federal agencies? If so, how?

Marion M. McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2022–27547 Filed 12–19–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2022–N069; FXES11130200000–234–FF02ENEH00]

Endangered Wildlife; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to recover and enhance

endangered species survival. With some exceptions, the Endangered Species Act (ESA) prohibits certain activities that may impact endangered species, unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please submit your written comments by January 19, 2023.

ADDRESSES: *Document availability:* Request documents from the contact in the **FOR FURTHER INFORMATION CONTACT** section.

Comment submission: Submit comments by email to *fw2_te_permits@fws.gov.* Please specify the permit application you are interested in by number (*e.g.,* Permit Record No. PER1234567).

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Supervisor, Environmental Review Division, by phone at 505–248–6651, or via email at *marty_tuegel@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

With some exceptions, the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

The ESA and our implementing regulations in the Code of Federal Regulations (CFR) at title 50, part 17, provide for issuing such permits and require that we invite public comment before issuing permits for activities involving listed species.

A recovery permit we issue under the ESA, section 10(a)(1)(A), authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or enhance the species' propagation or survival. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Documents and other information submitted with these applications are available for review by any party who submits a request as specified in **ADDRESSES**. Our release of documents is subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. We invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Please refer to the permit record number when submitting comments.

Permit Record No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER0055320	George Miksch Sutton Avian Research Center; Bartlesville, Oklahoma.	Masked bobwhite quail (*Colinus virginianus ridgwayi*).	Arizona, Oklahoma.	Captive propagation	Harass, harm, capture.	Renew.
PER0055321	Boatright, Patrick; Dripping Springs, Texas.	Golden-cheeked warbler (*Setophaga chrysoparia*).	Texas	Presence/absence surveys, habitat assessment.	Harass, harm	Amend.
PER0055322	East Foundation; San Antonio, Texas.	Ocelot (*Leopardus pardalis*)	Texas	Presence/absence surveys, live capture, chemical immobilization, handling, tagging, biosample collection.	Harass, harm, capture, collect.	Renew/Amend.
PER0055325	Gladstone, Nicholas; Austin, Texas.	Coffin Cave mold beetle (*Batrisodes texanus*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), Bee Creek Cave harvestman (*Texella reddelli*), Bone Cave harvestman (*Texella reyesi*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Tooth Cave spider (*Tayshaneta myopica*).	Texas	Presence/absence surveys, habitat assessment.	Harass, harm	Amend.

Permit Record No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER0055729	Francke, Christopher; Cedar Park, Texas.	Barton Springs salamander (*Eurycea sosorum*), Austin blind salamander (*Eurycea waterlooensis*), Texas blind salamander (*Eurycea rathbuni*), Tooth Cave spider (*Tayshaneta myopica*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Bee Creek Cave harvestman (*Texella reddelli*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), Bone Cave harvestman (*Texella reyesi*), Coffin Cave mold beetle (*Batrisodes texanus*), ground beetle (*Rhadine exilis*), ground beetle (*Rhadine infernalis*), Helotes mold beetle (*Batrisodes venyivi*), Cokendolpher Cave harvestman (*Texella cokendolpheri*), Robber Baron Cave meshweaver (*Cicurina baronia*), Madla Cave meshweaver (*Cicurina madla*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), Government Canyon Bat Cave spider (*Neoleptoneta microps*), Comal Springs riffle beetle (*Heterelmis comalensis*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Peck's Cave amphipod (*Stygobromus pecki*).	Texas	Presence/absence surveys, handling, capture, voucher specimen collection.	Harass, harm, kill, capture.	Renew.
PER0055763	Texas State Aquarium; Corpus Christi, Texas.	Kemp's ridley sea turtle (*Lepidochelys kempii*), hawksbill sea turtle (*Eretmochelys imbricata*), leatherback sea turtle (*Dermochelys coriacea*).	Texas	Document, examine, and salvage stranded sea turtles, capture/handle, tag, transport, receive, rehabilitate, and release stranded sea turtles, tissue/blood sample collection, educational display.	Harass, harm, capture, collect.	Renew/Amend.
PER0056417	Cowan, Casey; San Antonio, Texas.	Golden-cheeked warbler (*Setophaga chrysoparia*).	Texas	Presence/absence surveys	Harass, harm ...	New.
PER0070221	Caesar Kleberg Wildlife Research Institute; Kingsville, Texas.	Ocelot (*Leopardus pardalis*), Gulf Coast jaguarundi (*Puma yagouaroundi cacomitli*).	Texas	Tissue sample collection ..	Harass, harm, capture, collect.	Amend.
PER0065413	Travis Audubon Society, Inc.; Leander, Texas.	Golden-cheeked warbler (*Setophaga chrysoparia*).	Texas	Presence/absence surveys, habitat assessment.	Harass, harm ...	Renew.
PER0070375	Clemens, Brad; Sierra Vista, Arizona.	Southwestern willow flycatcher (*Empidonax traillii extimus*).	Arizona	Presence/absence surveys	Harass, harm ...	New.
PER0052843	Pernicano, Martina; Golden, Colorado.	Southwestern willow flycatcher (*Empidonax traillii extimus*).	Arizona, California, Colorado, Nevada, New Mexico, Utah.	Presence/absence surveys	Harass, harm ...	Renew.
PER0018550	Mowad, Gary; Scottsdale, Arizona.	Ocelot (*Leopardus pardalis*), Gulf Coast jaguarundi (*Puma yagouaroundi cacomitli*).	Arizona, Texas	Camera monitoring using scents/attractants.	Harass, harm ...	New.
PER0075733	USFWS Buenos Aires National Wildlife Refuge; Sasabe, Arizona.	Masked bobwhite quail (*Colinus virginianus ridgwayi*).	Arizona	Maintain, propagate, release, monitor, conduct research, habitat management.	Harass, harm, capture.	Renew.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, National Environmental Policy Act, and Service and Department of the Interior policies and procedures. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be

made available for public disclosure in their entirety.

Authority

We provide this notice under section 10 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Amy Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2022–27605 Filed 12–19–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2022–N074; FXES11140400000–223–FF04E00000]

Endangered Species; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by January 19, 2023.

ADDRESSES:

Reviewing Documents: Submit requests for copies of applications and other information submitted with the applications to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**). All requests and comments should specify the applicant name and application number (*e.g.,* Mary Smith, ESPER0001234).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *Email (preferred method): permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.
- *U.S. mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone) or *karen_marlowe@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552).

Background

With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take if a permit were not issued. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies, and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES02166C–3	Zoe Bryant; St. Augustine, FL.	Ozark big-eared bat (*Corynorhinus townsendii ingens*) and tricolored bat (*Perimyotis subflavus*).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, West Virginia, Vermont, Wisconsin, and Wyoming.	Presence/probable absence surveys.	Capture with mist nets or harp traps, handle, identify, band, radio tag, and release.	Amendment.
ES49227D–1	Riverside Environmental Consulting; Birmingham, AL.	Gopher tortoise (*Gopherus polyphemus*) and red-cockaded woodpecker (*Picoides borealis*).	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.	Presence/probable absence surveys and population management and monitoring.	Reptiles: Scope burrows; Birds: Construct and monitor artificial nest cavities and restrictors.	Amendment.
PER0056298–0 ...	Phillip Jordan; USDA Forest Service, Southern Research Station, Hot Springs, AR.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), and tri-colored bat (*Perimyotis subflavus*).	Alabama, Arkansas, Louisiana, Missouri, and Oklahoma.	Presence/probable absence surveys and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio tag, and release.	New.
ES056510–7	Joseph Pechmann; Western Carolina University, Cullowhee, NC.	Dusky gopher frog (*Rana sevosa*).	Mississippi	Research population monitoring and headstarting.	Capture, examine, measure, mark, tag, radio tag, temporarily hold, collect tail fin tissue samples, swab, sacrifice tadpoles, and salvage.	Renewal and amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES21570C–3	Tennessee Wildlife Resources Agency; Nashville, TN.	Alabama lampmussel (*Lampsilis virescens*), Appalachian elktoe (*Alasmidonta raveneliana*), Appalachian monkeyface (*Theliderma sparsa*), birdwing pearlymussel (*Lemiox rimosus*), clubshell (*Pleurobema clava*), Coosa moccasinshell (*Medionidus parvulus*), cracking pearlymussel (*Hemistena lata*), Cumberland bean (*Villosa trabalis*), Cumberland elktoe (*Alasmidonta atropurpurea*), Cumberland monkeyface (*Theliderma intermedia*), Cumberland pigtoe (*Pleuronaia gibber*), Cumberlandian combshell (*Epioblasma brevidans*), dromedary pearlymussel (*Dromus dromas*), fanshell (*Cyprogenia stegaria*), finerayed pigtoe (*Fusconaia cuneolus*), fluted kidneyshell (*Ptychobranchus subtentus*), Georgia pigtoe (*Pleurobema hanleyianum*), green blossom (*Epioblasma torulosa gubernaculum*), littlewing pearlymussel (*Pegias fabula*), orangefoot pimpleback (*Plethobasus cooperianus*), oyster mussel (*Epioblasma capsaeformis*), pale lilliput (*Toxolasma cylindrellus*), pink mucket (*Lampsilis abrupta*), purple bean (*Villosa perpurpurea*), purple cat's paw (*Epioblasma obliquata obliquata*), rayed bean (*Villosa fabalis*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), rough rabbitsfoot (*Quadrula cylindrica strigillata*), scaleshell (*Leptodea leptodon*), sheepnose (*Plethobasus cyphyus*), shiny pigtoe (*Fusconaia cor*), slabside pearlymussel (*Pleuronaia dolabelloides*), snuffbox (*Epioblasma triquetra*), southern acornshell (*Epioblasma othcaloogensis*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), spectaclecase (*Cumberlandia monodonta*), tan riffleshell (*Epioblasma florentina walkeri* [=*E. walkeri*]), triangular kidneyshell (*Ptychobranchus greenii*), tubercled blossom (*Epioblasma torulosa torulosa*), turgid blossom (*Epioblasma turgidula*), upland combshell (*Epioblasma metastriata*), white wartyback (*Plethobasus cicatricosus*), winged mapleleaf (*Quadrula fragosa*), and yellow blossom (*Epioblasma florentina florentina*).	Tennessee	Scientific research, captive propagation, and relocation and reintroduction activities.	Collect, transport, hold in captivity for more than 45 consecutive days, release, translocate, and euthanize.	Renewal and amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES88809B–1	Ray Eaton; Berea, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), tricolored bat (*Perimyotis subflavus*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*).	Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/probable absence surveys, studies to document habitat use, population monitoring, and evaluation of potential impacts of white-nose syndrome or other threats.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio tag, collect hair samples, swab, and release.	Renewal and amendment.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can 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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to an applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

John Tirpak,

Deputy Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2022–27612 Filed 12–19–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2022–0167; FXIA16710900000–234–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by January 19, 2023.

ADDRESSES:

Obtaining Documents: The applications, supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2022–0167.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2022–0167.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2022–0167; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2185 or via email at *DMAFR@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information

that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES.** We will not consider comments sent by email or to an address not in **ADDRESSES.** We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations (CFR) in part 17.

III. Permit Applications

We invite comments on the following applications.

Applicant: Woodland Park Zoo, Seattle, WA; Permit No. PER0056208

The applicant requests a permit to export one captive-bred female Malayan tapir (*Tapirus indicus*) from Woodland Park Zoo, Seattle, Washington, to the Calgary Zoo, Alberta, Canada, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Armando Bazaldua, Ventura, CA; Permit No. PER0069622

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Madagascar radiated tortoise (*Geochelone radiata*), to enhance the propagation or survival of the species: This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

- Brock Huggins, Decatur, TX; Permit No. PER0072655
- Joseph Dianda, Reno, NV; Permit No. PER0072656
- Julie Dianda, Reno, NV; Permit No. PER0072721
- Elizabeth Ingham, Winchester, VA; Permit No. PER0076782
- Applicant: Michael Dianda, Reno, NV; Permit No. PER0076785
- Applicant: Keith Coleman, New Braunfels, TX; Permit No. PER0077298

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to regulations.gov and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Supervisory Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2022–27549 Filed 12–19–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2022–N056; FXES1114020000–234–FF02ENEH00]

Application for Amendment of Incidental Take Permit; Cibolo Canyon Master Phase II Environmental Assessment and Habitat Conservation Plan for Golden-Cheeked Warbler; Bexar County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: TF Cibolo Canyons LP (applicant) has applied to the U.S. and Wildlife Service (Service) to amend their existing incidental take permit (ITP), pursuant to the Endangered Species Act. In support of the application, the applicant submitted a proposed amendment to their *Cibolo Canyon Master Phase II Environmental Assessment and Habitat Conservation Plan* (HCP). The requested amendment, if approved, would continue authorization of incidental take of the golden-cheeked warbler. We also announce the availability of a draft screening form that has been prepared to evaluate the ITP application in accordance with the requirements of the National Environmental Policy Act (NEPA). We invite the public and local, State, Tribal, and Federal agencies to comment on the ITP application, as well as the amended HCP and draft NEPA screening form.

DATES: We will accept comments received or postmarked on or before January 19, 2023.

ADDRESSES: *Obtaining documents:* You may obtain copies of the proposed HCP,

draft NEPA screening form, and other related documents at the Service's website at *https://www.fws.gov/office/austin-ecological-services.* You may obtain copies of the ITP application by contacting the Service's Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Submitting comments: You may submit written comments by email to *FW2_AUES_Consult@fws.gov.* Please note that your comment is in reference to the Cibolo Canyon HCP. For more information, see Public Availability of Comments.

FOR FURTHER INFORMATION CONTACT: Karen Myers, Acting Project Leader, Austin Ecological Services Field Office; telephone 512–490–0057. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received and make available for public review a proposed amendment to the *Cibolo Canyon Master Phase II Environmental Assessment and Habitat Conservation Plan* in Bexar County, Texas, ITP application, and an associated draft screening form. TF Cibolo Canyons LP (applicant) has applied for an amended ITP supported by the proposed amendment to their HCP. If approved, their already issued 30-year permit would continue authorization of incidental take of the federally listed, endangered golden-cheeked warbler (*Setophaga chrysoparia;* warbler) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The permit would continue to authorize incidental take of the warbler resulting from vegetation clearing for construction of homes, apartments, and other such facilities.

In addition, in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), we advise the public that:

1. We have prepared a draft NEPA screening form to evaluate the proposed amendment to the HCP and potential permit issuance. We are accepting comments on the proposed amendment to the HCP and draft screening form.

2. The applicant and the Service have developed the proposed amendment to the HCP, which describes the measures the applicant has volunteered to take to meet the issuance criteria for an ESA section 10(a)(1)(B) permit associated with the HCP. The issuance criteria are found at 50 CFR 17.22(b)(2).

3. The HCP would be implemented by the applicant and would remain effective until the expiration of the HCP and associated permit.

4. As described in the HCP, the potential incidental take of the warbler could result from otherwise lawful activities covered by the HCP.

Background

Section 9 of the ESA and our implementing regulations at 50 CFR part 17 prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct'' (16 U.S.C. 1538(19)). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity.

Regulations governing such take of endangered and threatened species are found at 50 CFR 17.21 and 50 CFR 22, and 50 CFR 17.31 and 50 CFR 32, respectively.

Proposed Action

The proposed action involves the issuance of an amended 10(a)(1)(B) incidental take permit (ITP) to TF Cibolo Canyons LP (applicant) and approval of the proposed amendment to the *Cibolo Canyon Master Phase II Environmental Assessment and Habitat Conservation Plan.* The ITP would cover incidental ''take'' of the warbler associated with vegetation clearing and construction of homes, apartments, and other such facilities, as described in ITP TE102437–0 and the HCP.

The existing ITP expires February 18, 2036, and, prior to now, no extension has been requested. The original permit authorized incidental take of warbler on 846 acres (ac) and resulted in 768 ac of mitigation on site (70 FR 22682, May 2, 2005). The primary purpose of the amendment request is to revise the boundaries of the original 768-acre GCWA preserve. The 768-acre preserve was placed under conservation easement as mitigation for the EA/HCP. Cibolo requests to exchange 63 acres of preserve for 144 acres of Master Phase II development area. This boundary modification will result in an overall reduction of the development area from 846 to 765 acres, an increase of the conservation easement from 768 acres to 849 acres, and reduce the amount of habitat loss and take of the GCWA due to implementation of the EA/HCP. The proposed swap would result in less edge-to-area ratio in the preserve area.

To meet the requirements of a section 10(a)(1)(B) ITP, the applicant would implement their amended HCP. The HCP describes the conservation measures the applicant has agreed to undertake to minimize and mitigate incidental take and ensures that incidental take will not appreciably reduce the likelihood of the survival and recovery of warbler in the wild.

Next Steps

We will evaluate the permit application, proposed amendment to the HCP, draft NEPA screening form, and comments we receive to determine whether the HCP application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will approve the proposed amendment to the HCP and issue the permit to the applicant under section 10(a)(1)(B) of the ESA, in accordance with the terms of the amended HCP and specific terms and conditions of the authorizing permit. We will not make our final decision until after the 30-day comment period ends, and until we have fully considered all comments received during the public comment period.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under the authority of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy L. Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2022–27611 Filed 12–19–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R1–ES–2022–0029; ES11140100000–234–FF01E0000]

Draft Environmental Impact Statement for the Elliott State Research Forest Habitat Conservation Plan in Coos and Douglas Counties, OR; Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, are extending the public comment period on our November 18, 2022, notice that announced our draft environmental impact statement evaluating two incidental take permit (ITP) applications received from the Oregon Department of State Lands (ODSL). The ITP applications include the ODSL's Elliott State Research Forest Habitat Conservation Plan, which is also under review. The applicant is requesting incidental take coverage of northern spotted owl, marbled murrelet, and Oregon Coast coho. Comments previously submitted need not be resubmitted and will be fully considered.

DATES: *Comment Period:* The comment period for the draft habitat conservation plan and draft environmental impact statement, notice of which was published on November 18, 2022 (87 FR 69291), is extended by 7 days. Comments submitted online at *https://www.regulations.gov* must be received by 11:59 p.m. Eastern Standard Time on January 10, 2023. Hardcopy comments must be received or postmarked on or before January 10, 2023.

ADDRESSES:

Obtaining Documents: The draft habitat conservation plan and the draft environmental impact statement, along with any comments and other materials submitted to us, are available at *https://www.regulations.gov* in Docket No. FWS–R1–ES–2022–0029.

Submitting Comments: You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R1–ES–2022–0029.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS–R1–ES–2022–0029; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you submit comments by only one of the methods above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post online any personal information that you provide. For additional information about submitting comments, see Public Availability of Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Shauna Everett, by telephone at 503–231–6949, or by email at *shauna_everett@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: On November 18, 2022 (87 FR 692910), we, the U.S. Fish and Wildlife Service (FWS), announced the availability for public comment of a draft environmental impact statement (DEIS) pursuant to the requirements of the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), to evaluate applications for incidental take permits (ITPs) received from the Oregon Department of State Lands (ODSL; applicant). ODSL submitted two applications, one for the northern spotted owl (*Strix occidentalis*) and marbled murrelet (*Brachyramphus marmoratus*) under FWS jurisdiction and the second application for the Oregon Coast coho (*Oncorhynchus kisutch*) under National Marine Fisheries Service (NMFS) jurisdiction. NMFS is a cooperating agency under NEPA. In support of the ITP applications, the ODSL prepared the draft Elliott State Research Forest Habitat Conservation Plan (HCP), which we also announced for public review.

With this notice, we are extending the public comment period on the DEIS and HCP (see **DATES** and **ADDRESSES**). Further information about the project and Federal process may be found at *https://www.fws.gov/project/elliott-state-research-forest-habitat-conservation-plan/.*

Public Availability of Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1539(c)) and NEPA and its implementing regulations (40 CFR 1503.1 and 1506.6).

Nanette Seto,

Acting Deputy Regional Director, Pacific Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 2022–27610 Filed 12–19–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/A0A501010.999900]

Draft Environmental Impact Statement for the Coquille Indian Tribe Fee-to-Trust and Gaming Facility Project, City of Medford, Jackson County, Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of comment period extension.

SUMMARY: The Bureau of Indian Affairs (BIA) is announcing an extension of the comment period for the Draft Environmental Impact Statement (DEIS) for the Coquille Indian Tribe fee-to-trust and Gaming Facility Project, City of Medford, Jackson County, Oregon. Additionally, this notice announces that the BIA intends to hold a second virtual

hearing to receive comments on the DEIS.

DATES: The second virtual public hearing will be held on January 31, 2023, beginning at 5:30 p.m. Pacific time. Interested persons are invited to submit comments on or before February 23, 2023.

ADDRESSES: Send your comments to the Northwest Regional Director, Bryan Mercier, by any of the following methods:

- Mail, hand-carry comments to Bryan Mercier, Northwest Regional Director, Bureau of Indian Affairs, Northwest Region, 911 Northeast 11th Avenue, Portland, Oregon 97232–4169. Please include your name, return address, and the caption: ''DEIS Comments, Coquille Indian Tribe Fee-to-Trust and Gaming Facility Project,'' on the first page of your written comments.
- Email comments to *CoquilleCasinoEIS@bia.gov* with ''DEIS Comments, Coquille Tribe Medford Gaming Facility Project'' as the subject of your email.

FOR FURTHER INFORMATION CONTACT: Brian Haug, Northwest Regional Director, Bureau of Indian Affairs, Northwest Region, (503) 231–6780 (Office), (503) 231–2201 (Fax), *CoquilleCasinoEIS@bia.gov*.

SUPPLEMENTARY INFORMATION: On November 25, 2022, Notice of Availability of the DEIS for the Coquille Indian Tribe fee-to-trust and Gaming Facility Project, City of Medford, Jackson County, Oregon was published in the **Federal Register** by the BIA (87 FR 72505) and the Environmental Protection Agency (87 FR 72482). On December 15, 2022, BIA held the first virtual public hearing.

Public review of the DEIS is part of the administrative process for BIA's evaluation of the Tribe's application to acquire approximately 2.4 acres of land in trust in the City of Medford, Jackson County, Oregon, for gaming purposes. Additional information on the proposed action, alternatives to the proposed action, and potential environmental impacts associated with the proposed action and alternatives can be found in the DEIS. The DEIS will be available for public review at:

- Medford Branch Library of Jackson County Library Services, 205 South Central Avenue, Medford, Oregon 97501; and online at *www.coquille-eis.com*.

Public Comment Availability

The second virtual public hearing will be held on January 31, 2023, beginning at 5:30 p.m. Pacific time, and will run until the last comment public comment is received.

- Please visit *https://us06web.zoom.us/webinar/register/WN_bWQot-T_R52SpXk8KOW0tw* to register for the virtual public hearing.
- Please visit *https://coquille-eis.com* for additional information and instructions for participation in the virtual public hearing.

Comments, including names and addresses of respondents, will be included as part of the administrative record and responses to comments on the Final EIS. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality regulations (40 CFR 1500 *et seq.*) and the Department of the Interior regulations (43 CFR part 46) implementing the procedural requirements of the NEPA (42 U.S.C. 4321 *et seq.*), and in accordance with the exercise of authority delegated to the Assistant Secretary—Indian Affairs by part 209 of the Department Manual.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–27573 Filed 12–19–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR93000 L61400000.HN0000LXLAH9990000 23X; OMB Control Number 1004–0168]

Agency Information Collection Activities; Tramroads and Logging Roads

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 21, 2023.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to *BLM_HQ_PRA_Comments@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0168 in the subject line of your comments. Please note that the electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jessica LeRoy by email at *jrleroy@blm.gov,* or by telephone at (503) 808–6164. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of

information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BLM Oregon State Office has authority under the Oregon and California Revested Lands Sustained Yield Management Act of 1937 (43 U.S.C. 2601 and 2602) and subchapter V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771) to grant rights-of-way to private landowners to transport their timber over roads controlled by the BLM. This information collection enables the BLM to calculate and collect appropriate fees for this use of public lands. This OMB Control Number is currently scheduled to expire on August 31, 2023. The BLM plans to request that OMB renew this OMB Control Number for an additional three years.

Title of Collection: Tramroads and Logging Roads (43 CFR part 2810).

OMB Control Number: 1004–0168.

Form Numbers: OR–2812–6.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Private landowners who hold rights-of-way for the use of BLM-controlled roads in western Oregon.

Total Estimated Number of Annual Respondents: 1,088.

Total Estimated Number of Annual Responses: 1,088.

Estimated Completion Time per Response: 8 hours.

Total Estimated Number of Annual Burden Hours: 8,704.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually, biannually, quarterly, or monthly, depending on the terms of the pertinent right-of-way.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2022–27562 Filed 12–19–22; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB02000.L19900000.EX0000.23X; MO: 4500167767]

Notice of Intent To Prepare an Environmental Impact Statement for Ioneer Rhyolite Ridge LLC's Proposed Rhyolite Ridge Lithium-Boron Mine Project, Esmeralda County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) Tonopah Field Office, Tonopah, Nevada, intends to prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts of authorizing the proposed Ioneer Rhyolite Ridge LLC (Ioneer) Rhyolite Ridge Lithium-Boron Project (Project) in Esmeralda County, Nevada. This notice announces the beginning of the scoping process to solicit public comments and identify issues and alternatives; it also serves to initiate public consultation, as required, under the National Historic Preservation Act (NHPA).

DATES: This notice initiates the public scoping process for the EIS, which will run through January 19, 2023. Scoping comments may be submitted in writing until January 19, 2023. The date(s) and location(s) of the scoping meetings will be announced at least 15 days in advance through local media and newspapers and on the BLM website at: *https://www.blm.gov/office/tonopah-field-office* and the Project's ePlanning website at *https://eplanning.blm.gov/eplanning-ui/project/2012309/510.* In order to be considered during the preparation of the Draft EIS, all scoping comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit scoping comments related to the proposed Rhyolite Ridge Lithium-Boron Mine Project by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2012309/510.*
- *Email: BLM_NV_BMDO_TFO_NONRENEWABLE@blm.gov.*
- *Fax:* (775) 635–4034.
- *Mail:* BLM Battle Mountain District Office, Attn: Rhyolite Ridge Project, 50 Bastian Road, Battle Mountain, NV 89820.

Documents pertinent to this proposal may be examined at the Battle Mountain District Office and the Tonopah Field Office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Scott Distel, Project Manager, telephone: (775) 635–4093; address: 50 Bastian Road, Battle Mountain, Nevada, 89820; email: *sdistel@blm.gov.* Contact Mr. Distel if you wish to add your name to our mailing list.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The BLM's purpose for the action is to consider Ioneer's proposed Plan of Operations and to analyze the potential environmental effects associated with the Proposed Action as described in the Plan of Operations, as well as feasible alternatives to the Proposed Action. The BLM's need to consider the action is established by the BLM's responsibilities under section 302 of the FLPMA, 43 U.S.C. 1732, and the BLM Surface Management Regulations at 43 CFR part 3809. The BLM needs to make sure that the operations under the General Mining Law of 1872 will not cause unnecessary or undue degradation of the public lands. 43 U.S.C. 1732(b).

Based on the Proposed Action, Ioneer is proposing to construct, operate, close, and reclaim a new lithium-boron mine in the Silver Peak Range in Esmeralda

County, Nevada, approximately 40 air miles southwest of Tonopah, Nevada, and 13 air miles northeast of Dyer, Nevada. The Project Area encompasses approximately 7,166 acres. The proposed Project facilities associated with the Proposed Action are expected to disturb approximately 2,296 acres within the 7,166 Project Area, of which 2,272 acres are on public lands managed by the Tonopah Field Office and 24 acres are on private land. The Project Area includes an Operational Area and an Access Road and Infrastructure Corridor. If authorized, the mine would operate 24 hours per day, 365 days per year for approximately 17 years. The work force would be approximately 500 persons for construction and 350 persons for operation. The Proposed Action anticipates that reclamation activities at the end of mining will take approximately six years, with monitoring continuing beyond the 6 years as needed.

The purpose of the public scoping process is to identify relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. During the public scoping period, the public is requested to identify any potential alternatives to the Proposed Action and provide any information or recommended analyses relevant to the Proposed Action and potential Project alternatives.

The BLM will use and coordinate the NEPA scoping process to help fulfill the public involvement process under the NHPA (54 U.S.C. 306108), as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed Project will assist the BLM in identifying and evaluating impacts to such resources in the context of both the NEPA and the NHPA.

The BLM has and will continue to consult with Native American Tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Federal, State, and local agencies, along with Tribes and stakeholders who may be interested in or affected by the proposed Project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be asked by the BLM to participate in the development of the EIS as a cooperating agency.

Following the completion of the public scoping process and subsequent analyses, the BLM will produce a Draft EIS. The Draft EIS will be made available for a 45-day public review and comment period and is anticipated to be completed by June of 2023 and will include public meetings to discuss the Draft EIS.

Following public input on the Draft EIS, the information received will be incorporated into a Final EIS, which is anticipated to be released for a 30-day public review period in December 2023. The BLM anticipates issuing a decision on this Project in January of 2024.

(Authority: 40 CFR 1501.9.)

Perry B. Wickham,

Field Manager, Tonopah Field Office, Battle Mountain District.

[FR Doc. 2022–27411 Filed 12–19–22; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_ID_FRN_MO4500167688]

Notice of Public Meetings of the Idaho Resource Advisory Council and the Lava Ridge Wind Project Subcommittee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Idaho Resource Advisory Council (RAC) and the Lava Ridge Wind Project Subcommittee (Subcommittee) will meet as follows.

DATES: The Subcommittee will host a meeting on Wednesday, Jan. 25, 2023, from 10 a.m. to 12 noon with public comments accepted at 11:15 a.m. Mountain Standard Time (MST). The Subcommittee will also host a meeting on Wednesday, Feb. 8, 2023, from 9 a.m. to 4:45 p.m., with public comments accepted at 2:30 p.m. MST.

The Idaho RAC will host a meeting on Thursday, March 9, 2023, from 9 a.m. to 5 p.m., with public comments accepted at 3 p.m. MST. The Idaho RAC will also host an in-person field tour on Wednesday, May 31, 2023, from 9 a.m. to 4 p.m. Mountain Daylight Time (MDT). The Idaho RAC will then host a meeting on June 1, 2023, from 9 a.m. to 5 p.m., with public comments accepted at 3 p.m. MDT. Public notice of any changes to this schedule will be posted on the Idaho RAC or the Subcommittee web pages (see **ADDRESSES**) 15 days in advance of each of the respective meetings.

ADDRESSES: The Subcommittee and Idaho RAC meetings in January, February, and March will take place at the BLM Twin Falls District Office, 2878 Addison Ave. E, Twin Falls, ID 83301. The Idaho RAC in-person field tour in May will commence at the BLM Boise District Office, 3948 S Development Ave., Boise, ID 83705 with the June meeting to be held at the BLM Idaho State Office, 1387 S Vinnell Way, Boise, ID 83709. A virtual participation option will be offered on the Zoom platform for the January and February Subcommittee meetings and registration information will be available on the Subcommittee's web page 30 days in advance of the meeting at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/idaho/lava-ridge-subcommittee.* Virtual participation options will also be offered on the Zoom platform for the March 9 and June 1 RAC meetings and registration information will be available on the RAC's web page 30 days in advance of the meeting at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/idaho.*

FOR FURTHER INFORMATION CONTACT: Idaho RAC Coordinator MJ Byrne, telephone: (208) 373–4006, email: *mbyrne@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 TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Idaho RAC serves in an advisory capacity to BLM officials concerning issues relating to land use planning and management of public land resources located within the State of Idaho. The Idaho RAC is chartered and the 15 members are appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, non-commodity, and local interests. The Idaho RAC's Lava Ridge Wind Project Subcommittee's purpose is to compile information, conduct research, and report their findings to the full RAC for consideration and formation of recommendations. The BLM Shoshone Field Office is currently developing an environmental impact statement to analyze the Lava Ridge Wind Project, a commercial-scale wind energy facility that is proposed to be constructed on

BLM-managed public land in southern Idaho.

The Jan. 25, 2023, Subcommittee meeting will include a review of the Lava Ridge Wind Project Draft Environmental Impact Statement (EIS) and alternatives. The Feb. 8, 2023, Subcommittee meeting will focus on compiling information and drafting any recommendations for consideration to the Idaho RAC on the draft EIS. The Subcommittee will present its findings and any recommendations during the March 9, 2023, Idaho RAC meeting. Additional agenda items include State Office and District updates, time permitting. The May 31, 2023, Idaho RAC in-person field tour will feature BLM Boise District public land management projects. The June 1, 2023, Idaho RAC meeting will feature presentations about fuels and fire restoration and recreation, as well as Division and District updates. Final agendas will be posted on the RAC and Subcommittee web pages listed in the **ADDRESSES** section of this notice.

All meetings and field tours are open to the public, but members of the public who wish to participate in the tour must provide their own transportation and meals. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the BLM (see **FOR FURTHER INFORMATION CONTACT**). Each Idaho RAC and Subcommittee meeting will have time allocated for public comments. Depending on the number of persons wishing to speak and the time available, the amount of time for oral comments may be limited. Written public comments may be sent to the BLM Idaho State Office listed in the **ADDRESSES** section of this notice. All comments received at least 1 week prior to the meeting will be provided to the Idaho RAC or Subcommittee, respectively. Please include ''RAC comment'' or ''Lava Ridge Subcommittee comment'' in your submission.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed summary minutes for the Idaho RAC and Subcommittee meetings will be maintained in the BLM Idaho State Office and will be available for public inspection and reproduction during regular business hours within 30 days of the meetings. Previous minutes and agendas are also available on the Idaho RAC and Subcommittee web pages listed above.

(Authority: 43 CFR 1784.4–2)

Karen Kelleher,

Idaho State Director.

[FR Doc. 2022–27627 Filed 12–19–22; 8:45 am]

BILLING CODE 4331–19–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035037; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Oberlin College, Oberlin, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Oberlin College has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from the City of Ashton, Spink County, South Dakota.

DATES: Repatriation of the human remains in this notice may occur on or after January 19, 2023.

ADDRESSES: Dr. Amy Margaris, Oberlin College, Department of Anthropology, King Building, 10 N Professor Street, Oberlin, OH 44074, telephone (440) 775–5173, email *amy.margaris@oberlin.edu*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Oberlin College. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Oberlin College.

Description

At an unknown date, human remains representing, at minimum, two individuals were removed from Spink County, SD. Accession # 236 in the accession book of the former Oberlin College Museum records that the Museum received ''1 Stone Hammer,'' ''1 Buffalo Molar,'' ''1 Incrusted [illegible]'' and ''2 femurs, Sioux Indians'' acquired from Ashton, South Dakota and accessioned in the year 188 [number illegible]. Prior and later accessions in the book place this accession in the year 1889. ''Geo. L. Williams'' is listed as the donor. According to records of the Oberlin College Archives, George Louis Williams was an Oberlin graduate who served as an itinerant preacher in Jerauld County, South Dakota from June to December 1890, and was killed in China's Boxer Rebellion in 1900. The human remains were retained by Oberlin College after the Museum's closure in the 1950s and are currently in the care of the College's Department of Anthropology. Osteological analysis of the human remains indicates they belong to two adults approximately 20–45 years old. No known individuals were identified. As the relationship between these human remains and the three other components of Accession #236 is unknown, no associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Oberlin College has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after January 19, 2023. If competing requests for repatriation are received, Oberlin College must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Oberlin College is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27529 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035043; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: University of Arkansas Museum Collections, Fayetteville, AR

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Arkansas Museum Collections has amended a Notice of Inventory Completion published in the **Federal Register** on April 29, 2022. This notice amends the number of associated funerary objects in collections removed from Cross, Mississippi, and Poinsett Counties, AR.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 19, 2023.

ADDRESSES: Dr. Mary Suter, University of Arkansas Museum Collections, Biomass 125, Fayetteville, AR 72701, telephone (479) 575–3456, email *msuter@uark.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Arkansas Museum Collections. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of Arkansas Museum Collections.

Amendment

This notice amends the determinations published in a Notice of Inventory Completion in the **Federal Register** (87 FR 25527–25529, April 29, 2022). Repatriation of the items in the original Notice of Inventory Completion has not occurred. This notice identifies one individual as missing and amends the number of associated funerary objects listed in the original notice by the addition of two associated funerary objects removed from the Carden Bottoms Site (3YE14).

At an unknown date, human remains representing, at minimum, 84 individuals were removed from unidentified sites located in Northeast Arkansas. Of that number, human remains representing one individual is currently missing from the collection. The University of Arkansas Museum continues to look for the missing individual.

From the Carden Bottoms Site (3YE14) in Yell County, AR, the five (previously identified as three) associated funerary objects are two (previously identified as one) complete ceramic bowls, two reconstructed ceramic bowls, and one piece of daub.

Determinations (as amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of Arkansas Museum Collections has determined that:

- The human remains represent the physical remains of 211 individuals of Native American ancestry.
- The 103 objects are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Quapaw Nation (*previously* listed as The Quapaw Tribe of Indians).

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 19, 2023. If competing requests for repatriation are received, the University of Arkansas Museum Collections must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Arkansas Museum Collections is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, § 10.13, and § 10.14.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27527 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035038; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Santa Barbara Museum of Natural History, Santa Barbara, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Santa Barbara Museum of Natural History has completed an inventory of human

remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Pinal County, Maricopa County, and Pima County, AZ.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 19, 2023.

ADDRESSES: Luke Swetland, President and CEO, Santa Barbara Museum of Natural History, 2559 Puesta del Sol, Santa Barbara, CA 93105, telephone (805) 682–4711, email *lswetland@sbnature2.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Santa Barbara Museum of Natural History. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Santa Barbara Museum of Natural History.

Description

Human remains representing, at minimum, three individuals were removed from Pinal County, Maricopa County, and Pima County, AZ.

On September 10, 1915, Frank A. Thackery collected a Hohokam ceramic funerary vessel containing cremated human remains and a potsherd from the Gila River Indian Reservation during the excavation of a sewer ditch running north from the new Sacaton hospital to the Little Gila canal, in Sacaton, AZ. In 1995, Eric Hvolboll donated this burial to the Santa Barbara Museum of Natural History. The two associated funerary objects are the ceramic funerary vessel and the ceramic potsherd contained within it.

Sometime prior to October 23, 1933, the Gila Pueblo Archaeological Foundation (Globe, AZ) excavated a Hohokam ceramic funerary vessel containing cremated human remains from the archeological site of Casa Buena in Phoenix, AZ. Harold Gladwin, the archeologist who founded the Gila Pueblo Archaeological Foundation, donated this burial to the Santa Barbara Museum of Natural History, and it was accessioned on October 23, 1933. The one associated funerary object is the ceramic funerary vessel.

Sometime prior to 1950, a Hohokam ceramic funerary vessel containing cremated human remains was removed from the site of the Russell Ranch School in Tucson, AZ. On July 30, 1954, Dr. and Mrs. Robert Russell donated this burial to the Santa Barbara Museum of Natural History. The one associated funerary object is the ceramic funerary vessel.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical, kinship, biological, archeological, linguistic, folkloric, oral traditional, historical, and other information or expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Santa Barbara Museum of Natural History has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The four objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Ak-Chin Indian Community (*previously* listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 19, 2023. If competing requests for repatriation are received, the Santa Barbara Museum of Natural History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Santa Barbara Museum of Natural History is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27525 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035042; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Transportation, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Alabama Department of Transportation (ALDOT) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any

Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to ALDOT. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to ALDOT at the address in this notice by January 19, 2023.

ADDRESSES: William B. Turner, Alabama Department of Transportation, 1409 Coliseum Blvd., Montgomery, AL 36110, telephone (334) 242–6144, email *turnerw@dot.state.al.us.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Alabama Department of Transportation, Montgomery, AL. The human remains were removed from Montgomery and Walker Counties, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Alabama Department of Transportation and the University of Alabama professional staff in consultation with representatives of The Muscogee (Creek) Nation.

History and Description of the Remains

In May of 2002, human remains representing, at minimum, two individuals were removed from the Lost Creek site, 1Wa186, in Walker County, AL, by the Office of Archaeological Research at the University of Alabama Museums, prior to road relocation and bridge replacement by the Alabama Department of Transportation. In May of 2002, the collection was obtained by University of Alabama, and in 2022, ALDOT assumed control. No known individuals were identified. The 155 lots of associated funerary objects present in the collection include ceramic sherds, sandstone fragments, lithic tools and debitage, fire cracked rock, shell, faunal remains, botanical remains, and charcoal samples.

Based on analysis of the material cultural remains recovered from 1Wa186, the primary occupation of the site occurred during the West Jefferson Phase of the Late Woodland.

In 1972, human remains representing, at minimum, 12 individuals were removed from the Zeigler Site, 1Mt86, in Montgomery County, AL. Burials were removed by University of Alabama archeologists working under contract to ALDOT during Phase III Data Recovery excavations conducted prior to Interstate 65 construction near the city of Montgomery. In June of 1972, the collection was obtained by University of Alabama, and in 2022, ALDOT assumed control. No known individuals were identified. The 66 associated funerary objects are 65 shell beads and 1 modified shell fragment.

Based on analysis of the artifacts recovered from 1Mt86, the site is primarily a Late Woodland village belonging to the Hope Hull Phase. Some evidence of an earlier, Late Woodland Autauga Phase was also present at the site.

Cultural affiliation of the human remains listed in this notice with The Muscogee (Creek) Nation is based on their recovery within the historically Muskogean-speaking area.

Determinations Made by the Alabama Department of Transportation

Officials of the Alabama Department of Transportation have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 14 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 221 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Muscogee (Creek) Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to William B. Turner, Alabama Department of Transportation, 1409 Coliseum Blvd., Montgomery, AL 36110, telephone (334) 242–6144, email *turnerw@dot.state.al.us,* by January 19, 2023. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Muscogee (Creek) Nation may proceed.

The Alabama Department of Transportation is responsible for notifying The Muscogee (Creek) Nation that this notice has been published.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27531 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035040; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Santa Barbara Museum of Natural History, Santa Barbara, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Santa Barbara Museum of Natural History has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from near Dillon in Beaverhead County, Montana.

DATES: Repatriation of the human remains in this notice may occur on or after January 19, 2023.

ADDRESSES: Luke Swetland, President and CEO, Santa Barbara Museum of Natural History, 2559 Puesta del Sol, Santa Barbara, CA 93105, telephone (805) 682–4711, email *lswetland@sbnature2.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Santa Barbara Museum of Natural History. The National Park Service is not responsible

for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Santa Barbara Museum of Natural History.

Description

Human remains representing, at minimum, one individual were removed from near Dillon in Beaverhead County, Montana. On an unknown date, Phil Cummings Orr, an archeologist and Curator of Paleontology and Anthropology at the Santa Barbara Museum of Natural History in the 1930s–1960s, collected a human cranium and mandible and subsequently donated them to the Santa Barbara Museum of Natural History. The skull has been repaired with glue and wire. Orr identified it as being ''Bannock Indian [from] Dillon, Montana.''

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical, kinship, biological, archeological, linguistic, folkloric, oral traditional, historical, and other information or expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Santa Barbara Museum of Natural History has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Shoshone-Bannock Tribes of the Fort Hall Reservation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after January 19, 2023. If competing requests for repatriation are received, the Santa Barbara Museum of Natural History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Santa Barbara Museum of Natural History is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27524 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035039; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Santa Barbara Museum of Natural History, Santa Barbara, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Santa Barbara Museum of Natural History has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from near Port Moller, Alaskan Peninsula, Alaska.

DATES: Repatriation of the human remains in this notice may occur on or after January 19, 2023.

ADDRESSES: Luke Swetland, President and CEO, Santa Barbara Museum of Natural History, 2559 Puesta del Sol, Santa Barbara, CA 93105, telephone (805) 682–4711, email *lswetland@sbnature2.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Santa Barbara Museum of Natural History. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Santa Barbara Museum of Natural History.

Description

Human remains representing, at minimum, one individual were removed from near Port Moller, Alaskan Peninsula, Alaska. Sometime before 1967, Alex Wheeler of Carpinteria, CA, collected a human mandible from an area about 10 miles from Port Moller, AK, that included a large hot spring. Presumably, this skeletal element was removed from the Hot Springs Village Site, a well-known archeological site near Port Moller. Wheeler donated these human remains to the Santa Barbara Museum of Natural History, and they were accessioned on March 17, 1967. No known individual was identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical, kinship, biological, archeological, linguistic information, folkloric, oral traditional, historical, and other information or expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Santa Barbara Museum of Natural History has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably

traced between the human remains described in this notice and the Native Village of Nelson Lagoon.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after January 19, 2023. If competing requests for repatriation are received, the Santa Barbara Museum of Natural History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Santa Barbara Museum of Natural History is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27528 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035041; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: Museum of Us, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Museum of Us (formerly the San Diego Museum of Man) has amended a Notice of Inventory Completion published in the **Federal Register** on May 3, 2019. This notice amends the minimum number of individuals and the number of associated funerary objects listed in the previous notice, as well as their cultural affiliation in a collection removed from San Diego County, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 19, 2023.

FOR FURTHER INFORMATION CONTACT: Carmen Mosley, NAGPRA Repatriation Manager, Museum of Us, 1350 El Prado, Balboa Park, San Diego, CA 92101, telephone (619) 239–2001 Ext. 42, email *cmosley@museumofus.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Museum of Us. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Museum of Us.

Amendment

This notice amends the determinations published in a Notice of Inventory Completion in the **Federal Register** (84 FR 19109–19111, May 3, 2019). Repatriation of the items in the original Notice of Inventory Completion has not occurred. This notice amends the counts of the minimum number of individuals and number of associated funerary objects, and the cultural affiliation as listed in the original notice. Human remains representing, at minimum, one additional individual, and 18 additional associated funerary objects were added to the inventory from the site cluster complex CA–SDI–149 & CA–SDI–4935A (W–198 & W–186), located east of Rancho Santa Fe, near the south bank of the San Dieguito River in San Diego County, CA. One additional associated funerary object was added to the inventory from a location near Fox Point (Woodley), now Leucadia Boulevard, in Carlsbad, San Diego County, CA. Five additional Indian Tribes are determined to be culturally affiliated with the human remains and associated funerary objects listed in this amended notice.

HUMAN REMAINS

Site	Original number of individuals	Amended number of individuals
Site cluster complex: CA–SDI–149 & CA–SDI–4935A (W–198 and W–186, respectively) in San Diego County, CA	3	4

ASSOCIATED FUNERARY OBJECTS

Site	Original number	Amended number	Amended description
Unknown location near Fox Point (Woodley), which is now Leucadia Boulevard, in Carlsbad, San Diego County CA.	20	21	one soil sample, five ecofacts, one lot of unmodified shell, one unmodified shell, three chipped stone core tools, two utilized flakes, two chipped stone unworked flakes, three chipped stone scrapers, one metate, one groundstone with asphaltum, and one mano fragment.

ASSOCIATED FUNERARY OBJECTS—Continued

Site	Original number	Amended number	Amended description
Site cluster complex: CA–SDI–149 & CA–SDI–4935A (W–198 and W–186, respectively) in San Diego County, CA.	2,713	2,731	one lot of mixed and human faunal bones, one modified faunal bone, 63 unmodified faunal bones, 60 lots of faunal bone, two undecorated ceramic body sherds, 17 lots of undecorated body sherds, five undecorated ceramic rim sherds, three lots of undecorated ceramic rim sherds, 94 chipped stone biface tools, 61 chipped stone choppers, 40 chipped stone cores, 28 chipped stone core tools, one stone drill, two stone crescents, 15 projectile points, 174 stone scrapers, 947 unworked flakes, 633 lots of unworked flakes, 71 utilized flakes, 23 lots of utilized flakes, 30 manos, five metates, 16 historic ceramic sherds, seven lots of historic ceramic sherds, 28 fragments of historic glass, 35 lots of historic glass fragments, one metal clover ornament, one metal earring, one metal pig figurine, 71 lots of metal including nails, bail bearings, pins, buttons, bullets and various fragments; one spoon, three lots of wood, one lot of brick fragments, 11 lots of charcoal, two lots of plastic, four lots of leather sole fragments, six lots of seeds, one lot of pieces of rubber, 11 ecofacts, seven lots of ecofacts, one lot of red ochre, one modified shell, 23 unmodified shells, 51 lots of unmodified shell, 98 lots of soil, 38 pollen samples, 29 hammerstones, six battered stones, and one fire affected stone.

Determinations (as Amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Museum of Us has determined that:

- The human remains described in this amended notice represent the physical remains of 17 individuals of Native American ancestry.
- The 3,528 objects described in this amended notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Captain Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California (*previously* listed as Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation); Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Jolla Band of Luiseno Indians, California (*previously* listed as La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation); La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; Pala Band of Mission Indians (*previously* listed as Pala Band of Luiseno Mission Indians of the Pala Reservation, California); Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Indians (*previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California); Rincon Band of Luiseno Mission Indians of Rincon Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Soboba Band of Luiseno Indians, California; and the Sycuan Band of the Kumeyaay Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in the **FOR FURTHER INFORMATION CONTACT** section. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 19, 2023. If competing requests for repatriation are received, the Museum of Us must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Museum of Us is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, 10.13, and 10.14.

Dated: December 13, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–27526 Filed 12–19–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0055]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Revision of a Currently Approved Collection; Identification of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit 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. The proposed collection OMB 1140–0055 (Identification of Explosive Materials) is being revised due to a reduction in the number of respondents, the total responses and public burden hours associated with this IC, since the last renewal in 2019.

DATES: Comments are encouraged and will be accepted for an additional 30 days until January 19, 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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;
- Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.
2. *The Title of the Form/Collection:* Identification of Explosive Materials.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*
Form number: None.
Component Sponsor: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:*
Primary: Business or other for-profit.
Other: None.
Abstract: Marking of explosives enables law enforcement entities better trace explosives from the manufacturer through the distribution chain to the end purchaser. This process is used as a tool in criminal enforcement activities.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,066 respondents will respond to this IC approximately 520 times once annually, and it will take each respondent approximately 3 seconds twice per day to complete their responses.
6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 895.3 or 895 hours, which is equal to 2,066 (total respondents) * 260 (# of workdays) * 0.001666 hours (average time to complete each response).
7. *An Explanation of the Change in Estimates:* The adjustment associated with this collection is a decrease in the number of respondents by 87. Consequently, the total responses and burden hours were reduced by 45,240 responses and 38 hours respectively, since the last renewal in 2019.

If additional information is required contact: Robert Houser, Department Clearance Officer, Policy and Planning Staff, Office of the Chief Information Officer, United States Department of Justice, Justice Management Division, Two Constitution Square, 145 N Street NE, 3.E–206, Washington, DC 20530.

Dated: December 15, 2022.

Robert Houser,

Department Clearance Officer, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–27546 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[Docket No. 2022N–11]

Commerce in Explosives; 2022 Annual List of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); Department of Justice.

ACTION: Notice of list of explosive materials.

SUMMARY: This notice publishes the 2022 List of Explosive Materials, as required by law. The 2022 list is the same as the 2021 list published by ATF.

DATES: The list becomes effective December 20, 2022.

FOR FURTHER INFORMATION CONTACT: Marianna Mitchem, Chief; Firearms and Explosives Industry Division; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Department of Justice; 99 New York Avenue NE, Washington, DC 20226; (202) 648–7120.

SUPPLEMENTARY INFORMATION: Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, the Department of Justice must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. 841 *et seq.* The list covers not only explosives, but also blasting agents and detonators, all of which are defined as ''explosive materials'' in 18 U.S.C. 841(c).

Each material listed, as well as all mixtures containing any of these materials, constitute ''explosive materials'' under 18 U.S.C. 841(c). Materials constituting blasting agents are marked by an asterisk. Explosive materials are listed alphabetically, and, where applicable, followed by their common names, chemical names, and/or synonyms in brackets. This list supersedes the List of Explosive Materials published in the **Federal Register** on December 23, 2021 (Docket No. 2021R–01, 86 FR 72996). However, the explosive materials on this list are the same as those on the 2021 Annual List of Explosive Materials.

The 2022 List of Explosive Materials is a comprehensive list, but is not all-inclusive. The definition of ''explosive materials'' includes ''[e]xplosives, blasting agents, water gels and detonators. Explosive materials, include, but are not limited to, all items in the 'List of Explosive Materials' provided for in § 555.23.'' 27 CFR 555.11. Accordingly, the fact that an explosive material is not on the annual list does not mean that it is not within coverage of the law if it otherwise meets the statutory definition of ''explosives'' in 18 U.S.C. 841(d) and (j). Subject to limited exceptions in 18 U.S.C. 845 and 27 CFR 555.141, only Federal explosives licensees and permittees may possess and use explosive materials, including those on the annual list.

Notice of the 2022 Annual List of Explosive Materials

Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, I hereby designate the following as ''explosive materials'' covered under 18 U.S.C. 841(c):

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non-cap sensitive).
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate explosive mixtures (excluding ammonium perchlorate composite propellant (APCP)).
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].
Aromatic nitro-compound explosive mixtures.
Azide explosives.

B

Baranol.
Baratol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
Black powder substitutes.
*Blasting agents, nitro-carbo-nitrates, including non-cap sensitive slurry and water gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Bulk salutes.
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclonite [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.
Cyclotrimethylenetrinitramine [RDX].

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM [dipicramide; diaminohexanitrobiphenyl].
Dipicryl sulfide [hexanitrodiphenyl sulfide].
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.
DNPA [2,2-dinitropropyl acrylate].
DNPD [dinitropentano nitrile].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA [ethylenedinitramine].
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
EGDN [ethylene glycol dinitrate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive liquids.
Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive powders.

F

Flash powder.
Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMTD [hexamethylenetriperoxidediamine].
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate explosive mixtures.
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.

Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrotriazolone [3-nitro-1,2,4-triazol-5-one].
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [plastic bonded explosives].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate explosives.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
Pyrotechnic fuses.
PYX [2,6-bis(picrylamino)] 3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Salutes (bulk).
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate explosive mixtures.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TATP [triacetonetriperoxide].
TEGDN [triethylene glycol dinitrate].
Tetranitrocarbazole.
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetrazole explosives.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzenesulfonic acid [picryl sulfonic acid].
Trinitrobenzoic acid.
Trinitrocresol.
Trinitrofluorenone.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthomonas hydrophilic colloid explosive mixture.

Dated: December 12, 2022.

Steven M. Dettelbach,

Director.

[FR Doc. 2022–27630 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–5]

Jennings Staley, M.D.; Decision and Order

On October 8, 2021, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Jennings Staley, M.D., (Respondent) of California,[1] alleging that Respondent ''committed such acts that would render [his] registration inconsistent with the public interest.'' OSC, at 2 (citing 21 U.S.C. 823(f) and 824(a)(4)).

A hearing was held before DEA Administrative Law Judge Paul E. Soeffing (the ALJ) who, on June 10, 2022, issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (RD).[2] [3] Having reviewed

[1] The Government sought to revoke Respondent's Certificates of Registration Nos. FS8992794 (909 Prospect Street, Suite 100C, La Jolla, CA 92037), FS7111519 (31888 Del Obispo Street, Suite C2, San Juan Capistrano, CA 92675), FS7522508 (420 Palladio Parkway, Suite 123, Folsom, CA 95630), FS4937922 (5016 Chesebro Road, Suite 210, Agoura Hills, CA 91301), and FS7568718 (23600 Rockfield Boulevard, Suite 2N, Lake Forest, CA 92630) and sought to deny Respondent's pending applications for new DEA Registrations Control Nos. W21025364C (24251 Town Center Drive, Suite 175, Valencia, CA 91355) and W21018406C (corrected) (13728 Hesperia Rd., Suite 7, Victorville, CA 92395). OSC, at 1–2.

[2] The RD, which is summarized herein, found in favor of the Government and neither party filed exceptions.

[3] After the RD was issued, but before the deadline for filing exceptions had passed, Respondent notified the ALJ that he voluntarily surrendered his five DEA Certificates of Registration, but that the

the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, credibility findings,[4] findings of fact, conclusions of law, sanctions analysis, and recommended sanction found in the RD.

I. Findings of Fact

The material facts in this case are narrow and undisputed. At the start of the COVID–19 pandemic, Respondent began a ''concierge medicine program'' providing telemedicine, home visits, and delivery of COVID–19 medication packages to people at risk of developing COVID–19. Tr. 92, 180; *see also Id.* at 93–96, 106, 181, 185, 192. In April 2020, an undercover FBI agent (UC) asked for six COVID–19 medication packages for himself and his family. Government Exhibit (GX) 8, at 2–3. At that point, Respondent, unsolicited, offered to dispense Xanax[5] to UC. *Id.* at 4–5 (''Resp: And then you need any Xanax? UC: Yeah, um why not? Yeah, I mean sounds great.''). Respondent testified that he offered to dispense Xanax ''as a courtesy'' because UC seemed anxious. Tr. 143. UC later told Respondent's wife that he had talked to Respondent, that he was approved for the concierge medical program, and that Respondent had said that he could have Xanax.[6] Tr. 172. Respondent's wife then packaged the order, including the Xanax, and shipped it to UC's home. *Id.* at 172–73. Respondent testified that he believed he had no further conversations with UC after the Xanax shipped. *Id.* at 35–41, 173, 187, 207; GX 8, 10, 11, 12. Respondent admitted that he had not completed a medical evaluation nor diagnosed[7] UC with a condition that would warrant dispensing Xanax, but still provided UC with the Xanax. *Id.; see also,* GX 10.[8]

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, 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. RD, at 12–18, 22. Specifically, 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.

DEA regulations require that for a prescription for a controlled substance to be effective, it must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice. 21 CFR 1306.04(a). CA Bus. & Prof. Code § 2242(a) prohibits prescribing or dispensing[9] dangerous drugs[10] absent an appropriate physical exam and medical indication. Here, Respondent admitted that he mailed Xanax, a ''dangerous drug'' under California law, to UC without conducting any physical examination or diagnosing UC ''with any condition that would warrant taking [Xanax].'' Tr. 207; *see also* CA Bus. & Prof. Code § 4022. This admitted conduct clearly violated California law and rendered Respondent's dispensing outside the usual course of professional practice. Furthermore, DEA regulations state that a practitioner may only provide Schedule IV controlled substances to a patient without a prescription where the practitioner administers or dispenses the controlled substance directly to the patient. 21 CFR 1306.21(b). Here, the record evidence shows that Respondent violated 21 CFR 1306.21(b) because he neither issued a valid prescription for nor directly dispensed the Xanax pills that he mailed to UC. *See supra* n.6.

Accordingly, the Agency agrees with the RD that the Government has established by substantial evidence that Respondent issued Xanax to Respondent in violation of CA Bus. & Prof. Code § 2242, and 21 CFR 1306.04(a) and 1306.21(b). RD, 17–18. As such, the Agency finds that Respondent's continued registration is inconsistent with the public interest and, thus, that the Government has established a *prima facie* case for revocation and denial. *Id.*

III. Sanction

Here, the Government has established grounds to revoke Respondent's registration, so the burden shifts to Respondent to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS, L.L.C., dba CVS Pharmacy Nos 219 and 5195,* 77 FR 62,316, 62,339 (2012).

Here, Respondent has failed to unequivocally accept responsibility. *See* RD, at 19–20. Instead, Respondent justified his conduct and even attempted, unsuccessfully, to establish that his shipping of Xanax to UC was proper.[11] *Id.* at 19–20. Respondent's misconduct was also egregious.[12] *See*

two applications were still pending. *See* Notice of Surrender dated June 30, 2022. Where a registration is terminated pursuant to 21 CFR 1301.52 after an ALJ has transmitted a recommended decision for final agency action (or, as here, after the ALJ had made all of the findings and recommendations), the Agency determines, on a case-by-case basis, if a final adjudication is warranted or if the matter should be dismissed. *See Steven M. Kotsonis, M.D.,* 85 FR 85,667, 85,668–69 (2020); *The Pharmacy Place,* 86 FR 21,008 (2021); *Creekbend Community Pharmacy,* 86 FR 40,627 n.4 (2021). Here, the Agency will continue to adjudicate this case because the final official record of the allegations, the evidence, and the final agency decision will all support the Agency's future interactions with Respondent; further, adjudication is necessary to address the two pending applications. *See Cypress Creek Pharmacy LLC,* 86 FR 71,927 n.2 (2021) (citing *Lawrence E. Stewart, M.D.,* 86 FR 15,257 (2021)).

[4] The Agency agrees that the assigned DEA Diversion Investigator's (DI) testimony was credible; Respondent's testimony was not fully credible and at times irrelevant, conflicting, and defensive; and Amanda Staley's (Respondent's wife and medical assistant) testimony was largely irrelevant. RD, at 4, 10, 12.

[5] The parties stipulated that Xanax is a brand name for alprazolam, a Schedule IV controlled substance. RD, at 2.

[6] DI testified that during the course of his investigation, he did not become ''aware of any prescription that was written by [Respondent] for this medication,'' *id.* at 51, nor has Respondent argued that there was a prescription for the Xanax. *See* Resp Posthearing, at 8.

[7] When asked, ''Had you diagnosed patient BM with any condition that would warrant taking alprazolam?'' Tr. 207, Respondent answered, ''No sir. I had not done a medical evaluation on patient BM.'' *Id.* Respondent then answered ''Yes,'' to the question ''but you nonetheless provided him with alprazolam, correct?'' *Id.* at 207–08.

[8] On July 21, 2021, Respondent entered a guilty plea in the United States District Court for the Southern District of California for violating 18 U.S.C. 541, wherein he admitted that he ''offered [UC] Viagra and Xanax without collecting any medical information about the undercover agent or the agent's purported family members . . . and his staff then mailed six treatment packs to the undercover agent, which included . . . Xanax . . . .'' GX 10, at 4.

[9] California law defines the term ''dispense'' to mean ''the furnishing of drugs or devices upon a prescription from a physician . . .'' and states that ''[f]urnish means to supply by any means, by sale or otherwise.'' CA Bus. & Prof. Code §§ 4024, 4026.

[10] CA Bus. & Prof. Code § 4022 defines the term ''dangerous drug'' to ''mean any drug . . . that bears the legend . . . ''Rx only'' . . . [or] that by federal or state law can be lawfully dispensed only on prescription.'' Here, the alprazolam bottle that Respondent mailed to UC contained the marking ''RX Only.'' GX 9.

[11] The Respondent even seemed incredulous that DEA was pursuing this matter. *See* RD, at 19–20 (citing Tr. 75–76). Moreover, when a registrant fails to make the threshold showing of acceptance of responsibility, the Agency need not address the registrant's remedial measures. *Ajay S. Ahuja, M.D.,* 84 FR 5479, 5498 n.33 (2019). Even so, here, ''Respondent made no showing of any remedial measures he has undertaken.'' RD, at 20.

[12] Respondent argued that his misconduct was not egregious enough to support revocation because the Government only established ''a single incident, involving an anti-anxiety medication which is not prone to abuse or overdose,'' and pointed out that he did not profit from shipping the Xanax. Resp

Continued

Garrett Howard Smith, M.D., 83 FR at 18,910 (collecting cases). Respondent, unsolicited, offered free Xanax to UC and then shipped it for UC and his whole family to use [13] without a prior medical examination or valid prescription. GX 8, at 4. This conduct lacks even a veneer of a legitimate medical purpose and is more closely aligned with that of a drug dealer than that of a doctor. Any sanction less than revocation would send a message to the current and prospective registrant community that serious violations of the core principals of the CSA will not result in revocation, so long as the violation represents only a single incident. *See Daniel A. Glick, D.D.S.,* 80 FR 74,800, 74,810 (2015).

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 me by 21 U.S.C. 824(a), I hereby revoke DEA Certificates of Registration Nos. FS8992794, FS7111519, FS7522508, FS4937922, and FS7568718 issued to Jennings Staley, M.D. Further, pursuant to 28 CFR 0.100(b) and 21 U.S.C. 823(f), I hereby deny any pending applications for renewal or modification of these registrations, deny Respondent's applications for new DEA Registrations Control Nos. W21025364C and W21018406C, and deny any other pending application of Jennings Staley, M.D., for registration in California. This order is effective January 19, 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. 2022–27480 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–09–P

Posthearing, at 7. The Agency disagrees and finds that Respondent's blatant disregard for the laws relating to controlled substances warrants a sanction.

[13] Respondent testified that though the Xanax was only dispensed in UC's name, it was for all ''eligible members of the family . . . him, his wife, his [father-in-law], and in an unusual situation, possibly a child.'' Tr. 214–15.

DEPARTMENT OF JUSTICE

[Docket No. JMD 156]

Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: Pursuant to Section 70913(a) of the Infrastructure Investment and Jobs Act and consistent with OMB Memorandum 22–08, *Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act,* Federal entities are required to provide the Office of Management and Budget (OMB) and Congress a report listing all Federal financial assistance programs for infrastructure administered by the agency. This report is required to be published in the **Federal Register**. The Department of Justice has prepared the report provided below regarding its financial assistance programs that provide funding that may be used by recipients for infrastructure projects.

FOR FURTHER INFORMATION CONTACT: For further information about these programs, contact Tara M. Jamison, Director, Office of Acquisition Management, Justice Management Division, 145 N Street NE, Room 8W.210, Washington, DC 20530, (202) 616–3754 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

1. Introduction

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (''IIJA''), which includes the ''Build America, Buy America Act'' (the Act). This Act ensures that Federal infrastructure programs require the use of materials produced in the United States, increases the requirement for American-made content, and strengthens the waiver process associated with Buy America provisions. The Act requires that within 60 days of its enactment, January 14, 2022, each agency must submit to the Office of Management and Budget (OMB) and Congress and publish in the **Federal Register** a report (''60-day report'') listing all Federal financial assistance programs for infrastructure administered by the agency.

2. Financial Assistance Programs for Infrastructure

There are three components within the Department of Justice (DOJ) responsible for Federal financial assistance programs: the Office of Justice Programs (OJP); the Office on Violence Against Women (OVW); and the Office of Community Oriented Policing Services (COPS Office).

This report reflects an initial identification of each Federal financial assistance program for infrastructure administered by these offices and an analysis of associated domestic content procurement preferences applicable to the Federal financial assistance. This initial analysis is based on the agency's current understanding of information contained in the law and the imminent timing requirements for reporting. This initial analysis is subject to change upon further evaluation. In FY 2022, the following programs for which at least part of the funding may potentially be used for a ''project'' for ''infrastructure'' as those terms are defined by IIJA and OMB M–22–08 have been identified.

2.1 OJP's 16.596 Tribal Justice Systems Infrastructure Program (TJSIP), which is Purpose Area 4 under the Coordinated Tribal Assistance Solicitation (CTAS), assists tribes in developing effective strategies to cost effectively renovate, expand, or replace existing facilities associated with the incarceration and rehabilitation of juvenile and adult justice-involved individuals subject to tribal jurisdiction. Generally, the types of projects funded under this program do not entail ''infrastructure'' on the scale contemplated by the IIJA or OMB M–22–08; however, it remains possible that projects of that scope, scale and nature could be funded in the future. Pursuant to OMB M–22–08, before applying any Buy America preferences to this program, which will directly affect Tribal communities, OJP is obligated to follow the consultation policies established through Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments,* and consistent with policies set forth in the Presidential Memorandum of January 26, 2021, on *Tribal Consultation and Strengthening Nation-to-Nation Relationships* to the extent necessary to address the exceptional type of infrastructure project described above.

2.2 OJP's 16.753 Byrne Discretionary Community Project Funding distributes

funding to support projects designated for funding in the Consolidated Appropriations Act, 2022 (Pub. L. 117–103) that improve the functioning of the criminal justice system, prevent, or combat juvenile delinquency, and assist victims of crime (other than compensation). The joint explanatory statement accompanying Public Law 117–103 lists the designated projects, which is incorporated by reference into the Appropriations Act. Thus, the types of projects, which may include ''infrastructure,'' are determined by the appropriation. To the extent that ''infrastructure projects'' may be authorized, OJP will, as it becomes legally necessary, impose special conditions on those awards to include ''Build America, Buy America''-specific provisions.

2.3 COPS Office's 16.710 Technology and Equipment Program (TEP) distributes funding to support projects designated in the Consolidated Appropriations Act, 2022 (Pub. L. 117–103) for law enforcement technologies, interoperable communications, and public safety equipment. The joint explanatory statement accompanying Public Law 117–103 lists the designated projects, which is incorporated by reference into the Appropriations Act. Thus, the types of projects, which may include ''infrastructure,'' are determined by the appropriation. To the extent that ''infrastructure projects'' may be authorized, the COPS Office will, as it becomes legally necessary, impose special conditions on those awards to include ''Build America, Buy America''-specific provisions.

2.4 Table 3–1 Recipients and Funds Awarded, below provides the number of entities that are participating in, and the amount of Federal funds that have been made available. Shown are the programs for each fiscal year, the total number of recipients and federal funds awarded under their respective programs, which are not limited solely to funding for ''infrastructure projects.'' At the time of this report, DOJ is still in the process of making its FY2022 awards and thus, the FY2022 figures indicated above may not be final.

TABLE 3–1—RECIPIENTS AND FUNDS AWARDED

Assistance listing	Number of recipients			Federal funds awarded		
	FY2020	FY2021	FY2022	FY2020	FY2021	FY2022
16.596 [TJSIP]	9	9	0	$8,768,582	$8,067,424	$0
16.753 [Byrne Discretionary]	0	0	202	0	0	153,147,000
16.710 [TEP]	0	0	121	0	0	111,744,000

Consistent with Public Law 117–58, 135 Stat. 429, 1295, no ''domestic content procurement preference'' as defined by Section 70912(2), set forth in Section 70913(b)(2), or consistent with Section 70914 applies to DOJ's programs. All DOJ awards administered by the above-mentioned offices encourage non-Federal entities, pursuant to 2 CFR 200.322, to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) to the greatest extent practicable under the Federal award and as appropriate and consistent with law.

2.5 DOJ has reviewed its Federal financial assistance programs and has determined that it does not administer any financial assistance programs for infrastructure as defined under the Act. Nor were any deficient programs, as defined under the Act, identified. This information has been reported to Congress and OMB as required by the Act.

Dated: December 14, 2022.

Tara M. Jamison,

Director, Office of Acquisition Management, Justice Management Division.

[FR Doc. 2022–27501 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–NW–P

JUSTICE DEPARTMENT

Notice of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act and the Delaware Hazardous Substances Cleanup Act

Notice is hereby given that the United States of America, on behalf of the National Oceanic and Atmospheric Administration (''NOAA'') and the Department of the Interior (''DOI''), acting through the Fish and Wildlife Service, in collaboration with the State of Delaware, on behalf of the Delaware Department of Natural Resources and Environmental Control (''DNREC'') (collectively, the ''Trustees''), are providing an opportunity for public comment on a proposed Settlement Agreement (''Settlement Agreement'') between the Trustees and the E.I. du Pont de Nemours and Co. and The Chemours Co. FC, LLC (''Settling Defendants''). The Agreement resolves natural resource damages claims under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607(a), and the Delaware Hazardous Substances Cleanup Act, 7 Del. C. chapter 91, related to the alleged release of hazardous substances from two manufacturing facilities owned and/or operated by the Settling Defendants. These now-shuttered facilities are the Edge Moor Plant and the Hay Road Iron Rich Landfill in New Castle County, Delaware. The alleged release of hazardous substances specifically led to injury to, impairment of, destruction of, loss of, diminution of value of, and/or loss of use of natural resources, including the reasonable costs of assessing the injuries.

Under the Settlement Agreement, the Settling Defendants will pay a total of $1,071,755.84 to resolve the Trustees' claims. Of this amount, $808,500 will be available for natural resource restoration projects to be selected by the Trustees in the future and implemented in the vicinity of the Site to compensate the public for the natural resource damages. The remaining $263,255.84 will be allocated to the Trustees' for reimbursement of their natural resource damages assessment costs. Specifically, $172,397.64 will go to NOAA; $1,204.40 to DOI; and $89,653.80 to DNREC.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. Comments on the proposed Settlement Agreement should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to The Chemours/DuPont Edge Moor Settlement Agreement, D.J. Ref. No. 90–5–1–1–12319. All comments must be submitted no later than thirty (30) days after the publication date of this notice.

Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decree/us-et-al-v-ei-du-pont-de-nemours-and-company-and-chemours-company-fc-llc.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–27487 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Petition for Finding of Plan Established or Maintained Under or Pursuant to Collective Bargaining Agreements

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before January 19, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Regulations under 29 CFR 2570.150 set forth an administrative procedure for obtaining a determination by the Secretary of Labor as to whether a particular Multiple Employer Welfare Arrangement (MEWA) that is an employee welfare benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. To initiate adjudicatory proceedings, an entity is required to file a petition for a determination under Section 3(40) of ERISA with an Administrative Law Judge (ALJ). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 22, 2022 (87 FR 43897).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Petition for Finding of Plan Established or Maintained Under or Pursuant to Collective Bargaining Agreements.

OMB Control Number: 1210–0119.

Affected Public: Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 370 hours.

Total Estimated Annual Other Costs Burden: $87.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: December 14, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–27516 Filed 12–19–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice Requirements of the Health Care Continuation Coverage Provisions

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before January 19, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the

information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides that under certain circumstances participants and beneficiaries of group health plans that satisfy the definition of ''qualified beneficiaries'' under COBRA may elect to continue group health coverage temporarily following events known as ''qualifying events'' that would otherwise result in loss of coverage. The Secretary of Labor has the authority under section 608 of the Employee Retirement Income Security Act of 1974 (ERISA) to prescribe regulations to carry out the provisions of part 6 of Title I of ERISA, including notice and disclosure requirements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 22, 2022 (87 FR 43897).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Notice Requirements of the Health Care Continuation Coverage Provisions.

OMB Control Number: 1210–0123.

Affected Public: Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 1,955,080.

Total Estimated Number of Responses: 34,050,621.

Total Estimated Annual Time Burden: 490,857 hours.

Total Estimated Annual Other Costs Burden: $20,770,879.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: December 14, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–27517 Filed 12–19–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Model Employer Children's Health Insurance Program Notice

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before January 19, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 701(f)(3)(B)(i)(II) of ERISA requires the Department of Labor to provide employers with model language for the Employer CHIP Notices to enable them to timely comply with this requirement. The model language is required to include information on how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for premium assistance, including how to apply for such assistance. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 22, 2022 (87 FR 43897).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Model Employer Children's Health Insurance Program Notice.

OMB Control Number: 1210–0137.

Affected Public: State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits, not-for-profit institutions, and farms.

Total Estimated Number of Respondents: 6,440,781.

Total Estimated Number of Responses: 215,756,871.

Total Estimated Annual Time Burden: 751,554 hours.

Total Estimated Annual Other Costs Burden: $18,037,275.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: December 14, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–27518 Filed 12–19–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Agency Information Collection Activities; Comment Request: VETS' Competitive Grant Program Reporting

ACTION: Notice of availability; request for comments.

SUMMARY: VETS is announcing an opportunity for public comment on the proposed revision of certain information the agency collects from grant recipients. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice.

DATES: Consideration will be given to all written comments received February 21, 2023.

ADDRESSES: A copy of this Information Collection Request (ICR) with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Kate McCord by telephone at (503) 806–4241 (this is not a toll-free number) or by email at *hvrp@dol.gov.*

Submit written comments about this ICR to: *hvrp@dol.gov.* Include ''HVRP 1293–0014 ICR Comments'' in the subject line.

Electronic submission: You may submit comments and attachments electronically at *DOL_PRA_PUBLIC@dol.gov,* identified by OMB Control Number 1293–0014.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Kate McCord by telephone at (503) 806–4241 (this is not a toll-free number) or by email at *hvrp@dol.gov.* Include ''HVRP 1293–0014 ICR Information'' in the subject line.

SUPPLEMENTARY INFORMATION: The Department of Labor's VETS administers funds for the Homeless Veterans' Reintegration Program (HVRP) grant on an annual basis. These competitive grants are codified under 38 U.S.C. 2021, 2021A, and 2023.

VETS provides funds to grantees through annual Funding Opportunity Announcements and incremental funding throughout the grant's three-year (12 quarters) period of performance. The total number of grantees varies from year to year based on the amount of available funds, awarded in grants up to $500,000 each year or up to $1.5 million in total.

The Assistant Secretary for Veterans' Employment and Training monitors and supervises the distribution and use of those funds as required by 38 U.S.C. 2021 (b) and 38 U.S.C. 2021A. Additionally, and in accordance with 38 U.S.C. 2021 (e), the Secretary reviews performance and provides an annual report to Congress on the program, including an evaluation of the services furnished to veterans and an analysis of the information we have collected.

VETS is requesting continued approval for this information collection that streamlines the funding application process for applicants, reports the use of grantee funds in sufficient detail to allow interim adjustments that ensure all appropriated funding is expended properly, and provides data needed for VETS' Annual Report to Congress.

The forms and reports collect required programmatic and financial data from applicants and grantees. The continued use of standardized formats for collecting this information helps to ensure that requested data is provided in a uniform way, reporting burdens are minimized, the impact of collection requirements on respondents are properly assessed, collection instruments are clearly understood by respondents, and the information is easily consolidated for posting in accordance with statutory requirements.

VETS is proposing the following additions to the form collection:

- *VETS–705 Past Performance Chart.* VETS intends to add a new form to this collection, the VETS–705 Past Performance Chart, to provide a standardized template for grant applicants without a previous HVRP award to submit performance outcomes from completed projects.

VETS is proposing the following revisions to the forms:

- *VETS–704 Applicant Synopsis/Abstract.* VETS proposes to rename this form to ''Abstract'' to better align with the terminology used in the HVRP Funding Opportunity Announcement (FOA) definitions and terms.
- *VETS–700 Planned Goals Chart.* VETS has historically requested that applicants submit up to 24 planned goals and a list of service delivery area counties. VETS proposes removing the requirement to enter geographic location information and goals for participant subgroups, training, and expenditures, which results in 16 fewer measures on the form. The authoritative source for a grant's service delivery area is the VETS–704 Abstract form; requiring county-level details to be entered into the VETS–700 is unnecessary. VETS no longer needs goals for participant subgroups and expenditures as they are not relevant at the application stage and training subgoals are redundant as there is only one standard training goal and it is a single benchmark that applies to all grantees. In addition, the formatting of the VETS–700 Planned Goals Chart only supports data entry for the first four quarters of a performance measure. VETS recommends changing the formatting to allow data entry for all 12 quarters of the grant's period of performance. This allows applicants the flexibility to submit quarter and/or program year-specific goals and displays a final set of goals that encompass the grant's full three-year period of performance. Lastly, this form is now included as a separate tab in the VETS–704 Abstract and in the VETS–701 TPR. The Planned Goals Chart is completed once at application; the data is then pasted into the Planned Goals Chart
- *VETS–701 Technical Performance Report (TPR).* On the Planned Goals tab, VETS proposes grantees enter the goals shown on the VETS–700 Planned Goals Chart and add three entries for planned expenditures related to participant services, indirect costs, and direct costs. On the Tech Perf Report tab, VETS proposes removing the requirement to enter the number of eligibility assessments conducted each quarter as VETS no longer needs to collect this information. On the Participant Info tab, VETS proposes removing two services provided entries: Transitional or Permanent Housing and the Work Attire/Tools/Equipment; the former is a data point VETS no longer requires, and the latter is redundant with another service (Employment Adjustment Services) and will be incorporated into

those selections. Continuing the Participant Info tab, VETS proposes replacing the free text Participant ID field with a form-generated, unique within the TPR-identification code based on existing participant data entries. VETS proposes to add service delivery area (SDA) fields to record the participant's state, county, city, and zip code of residence at the time of enrollment. This will allow VETS to map HVRP services at the county level and compare grantees' proposed service delivery areas to the locations of the participants being served. VETS intends to add an LGBTQIA+ field to ensure equity in services to lesbian, gay, bisexual, transgender, queer, intersex, and other sexual and gender-diverse communities. VETS intends to add a field to record a participant's military discharge status and modify the age at enrollment field to date of birth. VETS proposes to add fields to capture the number of training hours provided for each of the training type categories and modify the services last provided entries for each of the service type categories from a ninety-day selection window (quarters) to the date last provided. VETS intends to add occupation type selection fields to the placement, second quarter after exit, and fourth quarter after exit questions in the participant follow-up tracking section. Lastly, VETS has added a new tab titled, New Enrollment Entry; it serves as optional new enrollment data input form that assists in populating the Participant Info tab.

• *VETS–702 Technical Performance Narrative (TPN).* VETS proposes to remove the question pertaining to ''Cumulative Percentage of Participants Receiving Training Services,'' as the result of that measure will now be addressed in the existing failed and/or minimal performance narratives. VETS is also removing two financial review questions related to the status of the SF–425 as finalized for closeout. VETS proposes adding one additional question to the failed and minimal performance narratives that asks grant recipients to specify when an indicator's underperformance is related to a continuing issue from prior quarters and explain what remedies have been taken to address and improve performance over time. VETS has modified the Quarters 5–8 section of the TPN from one field that provided narrative explanations for both failed and minimal performance outcomes to two separate fields, with one text box dedicated to failed performance and one text box dedicated to minimal performance. The overall number of questions in the TPN remains unchanged.

• *VETS–703 Stand Down After Action Review (SDARR).* Currently, grant recipients have no way to explain why a required service for a Stand Down event as stated in the FOA was not available. By adding a comment box field to the form, grantees will be able to provide narrative justification regarding the services provided to Stand Down participants. This new field only applies if the grant recipient did not provide certain required services at the Stand Down event.

The Department's estimated burden total for the collection with the proposed changes are shown in the chart below. Overall, the proposed changes have increased the burden by two hours, from 11,004 to 11,006. The overall estimated number of respondents decreased by 186 from 1,078 to 892, specifically for the VETS–700, VETS–703, and VETS–704. The total estimated annual responses increased by two from 2,662 to 2,664. The average time burden by response increased for the VETS–701 and VETS–702 but decreased for the VETS–700 and VETS–703, with no changes to the VETS–704.

ESTIMATED ANNUAL BURDEN HOURS

Type of Instrument (form/activity)	Number of respondents	Number of responses per respondent	Total number of responses	Average burden time per response (hours)	Estimated burden hours
VETS–700 Planned Goals	116	1	116	1.0	116
VETS–701 TPR (Quarters 1–4; Year 1 Grantees)	58	4	232	14.0	3,248
VETS–701 TPR (Quarters 1–4; Year 2 and Year 3 Grantees)	117	4	468	7.0	3,276
VETS–701 TPR (Quarters 5–8; Year 1 Grantees)	0	0	0	0	0
VETS–701 TPR (Quarters 5–8; Year 2 and Year 3 Grantees)	117	4	468	2.0	936
VETS–702 TPN (Quarters 1–4; All Grantees Years 1–3)	175	4	700	4.0	2,800
VETS–702 TPN (Quarters 5–8; Year 2 and Year 3 Grantees)	117	4	468	1.0	468
VETS–703 SDARR	30	1	30	0.75	23
VETS–704 Abstract	116	1	116	1.0	116
VETS–705 Past Performance Chart	46	1	46	0.5	23
Unduplicated Total	892	28	2,644	4.2	11,006

This information collection is subject to the Paperwork Reduction Act (PRA). A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

The DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an Information Collection Review cannot be for more than three (3) years without renewal. The DOL notes that currently approved information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Agency: DOL–VETS.

Type of Review: Revision.

Title of Collection: VETS' Competitive Grant Program Reporting.

Forms:

1. VETS–700, Competitive Grants (CG) Planned Goals Chart;

2. VETS–701, CG Technical Performance Report (TPR);

3. VETS–702, CG Technical Performance Narrative (TPN);
4. VETS–703, Stand Down After Action Report (SDAAR);
5. VETS–704, Abstract and;
6. VETS–705, Past Performance Chart.

OMB Control Number: 1293–0014

Affected Public: State, Local, and Tribal Governments; Private Sector—businesses or other for-profits and not-for-profit institutions.

Estimated Number of Respondents: 892.

Frequency: Varies.

Total Estimated Annual Responses: 2,644.

Estimated Average Time per Response: 4.2 hours.

Estimated Total Annual Burden Hours: 11,006 hours.

Total Estimated Annual Other Cost Burden: $0.

(Authority: 44 U.S.C. 3506(c)(2)(A)).

James D. Rodriguez,

Assistant Secretary, Veterans' Employment and Training Service, U.S. Department of Labor.

[FR Doc. 2022–27515 Filed 12–19–22; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–014]

State, Local, Tribal, and Private Sector Policy Advisory Committee (SLTPS–PAC); Meeting

AGENCY: Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: We are announcing an upcoming meeting of the State, Local, Tribal, and Private Sector Policy Advisory Committee (SLTPS–PAC) in accordance with the Federal Advisory Committee Act and implementing regulations.

DATES: The meeting will be on January 4, 2023, from 10 a.m. to 12 p.m. (EST).

ADDRESSES: This meeting will be a hybrid meeting of in-person and virtual meeting. We will send instructions on how to access the meeting to those who register according to the instructions below.

FOR FURTHER INFORMATION CONTACT: Heather Harris Pagan, ISOO Senior Program Analyst, at *SLTPS_PAC@nara.gov* or (202) 357–5351. Contact ISOO at *ISOO@nara.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations at 41 CFR 102–3. The Committee will discuss matters relating to the classified national security information program for State, local, Tribal, and private sector entities.

Procedures: Please submit the name, email address, and telephone number of people planning to attend to Heather Harris Pagán at *SLTPS_PAC@nara.gov* (contact information above) no later than January 2, 2023. We will provide meeting access information to those who register.

Tasha Ford,

Committee Management Officer.

[FR Doc. 2022–27618 Filed 12–19–22; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0102]

Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.''

DATES: Submit comments by January 19, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0102 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0102.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML22347A317.
- *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 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not

want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 9, 2022, 87 FR 27664.

1. *The title of the information collection:* ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery''.
2. *OMB approval number:* 3150–0217.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion and annually.
6. *Who will be required or asked to respond:* Individuals and households; businesses and organizations; State, local, or Tribal governments.
7. *The estimated number of annual responses:* 4,200.
8. *The estimated number of annual respondents:* 4,200.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 1,087.5.
10. *Abstract:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, for the purpose of improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Dated: December 15, 2022.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–27593 Filed 12–19–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–90 and CP2023–91; MC2023–91 and CP2023–92; MC2023–92 and CP2023–93; MC2023–93 and CP2023–94]

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 22, 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

[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).

with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–90 and CP2023–91; *Filing Title:* USPS Request to Add Priority Mail Contract 773 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 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 22, 2022.

2. *Docket No(s).:* MC2023–91 and CP2023–92; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 104 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 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 22, 2022.

3. *Docket No(s).:* MC2023–92 and CP2023–93; *Filing Title:* USPS Request to Add Parcel Select Contract 55 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 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 22, 2022.

4. *Docket No(s).:* MC2023–93 and CP2023–94; *Filing Title:* USPS Request to Add Parcel Select Contract 56 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 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 22, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–27619 Filed 12–19–22; 8:45 am]

BILLING CODE 7710–FW–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information; Identifying Ambiguities, Gaps, Inefficiencies, and Uncertainties in the Coordinated Framework for the Regulation of Biotechnology

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice of request for information (RFI).

SUMMARY: The National Biotech and Biomanufacturing Initiative (NBBI) identified biotechnology regulation clarity and efficiency as a priority of the Administration. Thus, the White House Office of Science and Technology Policy (OSTP)—on behalf of the primary agencies that regulate the products of biotechnology, the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the U.S. Department of Agriculture (USDA)—requests relevant data and information, including case studies, that may assist in identifying any regulatory ambiguities, gaps, inefficiencies, or uncertainties in the Coordinated Framework for the Regulation of Biotechnology, particularly with regard to new and emerging biotechnology products. The information provided will inform regulatory agency efforts to improve the clarity and efficiency of the regulatory processes for biotechnology products.

DATES: Interested persons and organizations are invited to submit comments on or before 5 p.m. ET February 3, 2023.

ADDRESSES: USDA is managing this docket and is listed as the primary addressee below. All three agencies and OSTP will be considering all submitted comments as part of their efforts to identify regulatory ambiguities, gaps, or uncertainties in the Coordinated Framework.

You may submit information by any of the following methods (Due to time constraints, the eRulemaking Portal is strongly preferred):

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Enter ''APHIS-2022-0076'' in the Search field. Select the Documents tab, then select the Comment button in the list of documents and follow the instructions to submit your comment.
- *Postal Mail:* Send your comment to the following address. Please include Docket No. APHIS-2022-0076 in the subject line.

Animal and Plant Health Inspection Service, US Department of Agriculture, 4700 River Road, Riverdale, MD 20737, Attn: Alan Pearson

- *Listening Sessions:* The regulatory agencies and OSTP will host a virtual public listening session on January 12, 2023. If you are interested in registering for the virtual listening session, go to *https://www.zoomgov.com/webinar/register/WN_IhbckX4VTiacK0AsyiikKQ.* If you are interested in additional listening sessions, please contact Dominique Carter at *biotech-regulation@ostp.eop.gov.* Summaries of the comments offered during the public listening session and any small listening sessions will be posted to the docket on *regulations.gov.*

Response to this request for information (RFI) is voluntary. Each individual or institution is requested to submit only one response. Responses should include the name of the person(s) or organization(s) filing the response. Please identify your answers by referring to a specific question number within the response.

Comments submitted in response to this notice are subject to the Freedom of Information Act (FOIA). Responses to this RFI may be posted without change online. No proprietary information, copyrighted information, or personally identifiable information should be submitted in response to this RFI.

This RFI is issued solely for information and planning purposes and does not constitute a solicitation. There will be no response to individual submissions. Please note that the United States Government will not pay for response preparation, or for the use of any information contained in a response. If submitting a response by mail, please allow sufficient time for mail processing and include the docket number and title.

FOR FURTHER INFORMATION CONTACT:

OSTP: Dominique Carter, *biotech-regulation@ostp.eop.gov,* tel: 202–456–4444.

EPA: Mike Mendelsohn, *Mendelsohn.Mike@epa.gov.*

FDA: Eric Flamm, *Eric.Flamm@fda.hhs.gov.*

USDA: Alan Pearson, *alan.pearson@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background Information

In 1986, OSTP issued the Coordinated Framework for the Regulation of Biotechnology (51 FR 23302), which outlined a comprehensive Federal regulatory policy for ensuring the safety of biotechnology products. The Coordinated Framework sought to achieve a balance between regulation adequate to ensure the protection of health and the environment while maintaining sufficient regulatory flexibility to avoid impeding innovation.

In 1992, OSTP issued an update to the Coordinated Framework that set forth a risk-based, scientifically sound basis for the oversight of activities that introduce biotechnology products into the environment (57 FR 6753). The update affirmed that Federal oversight should focus on the characteristics of the product, the environment into which it is being introduced, and the intended use of the product, rather than the process by which the product is created.

In 2015, the Executive Office of the President (EOP) issued a memorandum directing EPA, FDA, and USDA to update the Coordinated Framework. The Federal government subsequently published a National Strategy for Modernizing the Regulatory System for Biotechnology in 2016; and in 2017, OSTP issued another update to the Coordinated Framework. This 2017 update clarifies current agency roles and responsibilities for the regulation of biotechnology products. It provides a table of responsibilities that lists the offices within each agency or agencies that may have regulatory responsibility for a given biotechnology product category, and relevant coordination across the agencies. In addition, it describes memoranda of understanding (MOUs) among the agencies and the types of products and information that are covered within the scope of each MOU. In 2019, E.O. 13874 recognized that advances in biotechnology have the potential to revolutionize agriculture, enhance rural prosperity, and improve the quality of American lives. The E.O. ordered additional steps to be taken to further modernize the regulatory framework.

For details on the current roles and responsibilities of agencies under the Coordinated Framework for the Regulation of Biotechnology, refer to the Unified website for Biotechnology Regulation *https://usbiotechnologyregulation.mrp.usda.gov/biotechnologygov/home/.*

On September 12, 2022, President Biden issued Executive Order (E.O.) 14081, ''Advancing Biomanufacturing and Biotechnology Innovation for a Sustainable, Safe, and Secure Bioeconomy,'' with the goal of accelerating biotechnology innovation and growing America's bioeconomy across multiple sectors, including health, agriculture, and energy. Among other objectives, E.O. 14081 aims to support the safe use of biotechnology by clarifying and streamlining regulations in service of a science- and risk-based, predictable, efficient, and transparent regulatory system to support the safe use of products of biotechnology. E.O. 14081 directs the EPA, FDA, and USDA to:

- identify any regulatory ambiguities, gaps, or uncertainties in the Coordinated Framework for the Regulation of Biotechnology, through engaging with developers and stakeholders and through horizon scanning for novel biotechnology products;
- provide plain-language information on the regulatory roles, responsibilities, and processes of each agency;
- provide a plan with processes and timelines to implement regulatory reform; and build upon the Unified website for Biotechnology Regulation.

As noted in the Executive Order, ''biotechnology means technology that applies to and/or is enabled by life sciences innovation or product development.'' Biotechnology products include, for example, organisms (including plants, animals, and microbes) developed through genetic engineering or the targeted or in vitro manipulation of genetic information, some products derived from such organisms, as well as products produced via cell-free synthesis, as determined by existing statutes and regulations.

Questions

Respondents are encouraged to provide relevant data or information, including case studies, regarding regulatory ambiguities, gaps, or uncertainties in the Coordinated Framework, and regarding new and emerging biotechnology products. Respondents need not reply to all questions listed. Please identify your answers as responses to a specific question.

1. Describe any ambiguities, gaps, inefficiencies, or uncertainties regarding statutory authorities and/or agency roles, responsibilities, or processes for different biotechnology product types, particularly for product types within the responsibility of multiple agencies.

a. Describe the impact, including economic impact, of these ambiguities, gaps, inefficiencies or uncertainties.

2. Provide any relevant data or information, including case studies, that could inform improvement in the clarity or efficiency (including the predictability, transparency, and coordination) of the regulatory system and processes for biotechnology products.

3. Describe any specific topics the agencies should address in plain language on the regulatory roles, responsibilities, and processes of the agencies.

4. Describe any specific issues the agencies should consider in developing a plan to implement regulatory reform, including any updated or new regulations or guidance documents.

5. Describe any new or emerging biotechnology products (*e.g.,* microbial amendments to promote plant growth; food plants expressing non-food substances or allergens from non-plant sources) that, based on lessons learned from past experiences or other information, the agencies should pay particular attention to in their evaluation of ambiguities, gaps, or uncertainties regarding statutory authorities and/or agency roles or processes.

6. Describe any new or emerging categories of biotechnology products on the horizon that the regulatory system and processes for biotechnology products should be preparing to address. Describe any specific recommendations for regulating these new or emerging categories of biotechnology products to guide agency preparations.

7. What is the highest priority issue for the agencies to address in the short term (*i.e.,* within the next year) and in the long term?

Dated: December 15, 2022.

Rachel Wallace,

Deputy General Counsel.

[FR Doc. 2022–27599 Filed 12–19–22; 8:45 am]

BILLING CODE 3270–F1–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information; National Biotechnology and Biomanufacturing Initiative

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice of request for information (RFI).

SUMMARY: The President's Executive Order on Advancing Biotechnology and Biomanufacturing Innovation for a Sustainable, Safe, and Secure American Bioeconomy launched a National

Biotechnology and Biomanufacturing Initiative (NBBI) to advance biotechnology and biomanufacturing towards innovative solutions in health, climate change, energy, food security, agriculture, and supply chain resilience, and to advance national and economic security. Biotechnology and biomanufacturing offer new opportunities to strengthen supply chains and lower prices, create more sustainable products through bio-based production, expand domestic production of goods and materials, create jobs across all of America, and spur new opportunities in agricultural communities, as some examples. This RFI seeks public input on how advances in biotechnology and biomanufacturing can help us achieve goals that were previously out of reach and what steps can be taken to ensure we have the right research ecosystem, workforce, data, domestic biomanufacturing capacity, and other components to support a strong bioeconomy.

DATES: Interested persons and organizations are invited to submit comments on or before 5 p.m. ET on January 20, 2023.

ADDRESSES: Interested individuals and organizations should submit comments electronically to *biotech@ostp.eop.gov* and include ''RFI Response: Biotechnology and Biomanufacturing Initiative'' in the subject line of the email. Due to time constraints, mailed paper submissions will not be accepted, and electronic submissions received after the deadline may not be taken into consideration.

Instructions: Response to this RFI is voluntary. Respondents may answer as many or as few questions as they wish. Each individual or institution is requested to submit only one response. Electronic responses must be provided as attachments to an email rather than a link. Please identify your answers by referring to a specific question number and/or letter within the response. Comments of seven pages or fewer (3,500 words) are requested; longer responses will not be considered. Responses should include the name of the person(s) or organization(s) filing the response. Responses containing references, studies, research, and other empirical data that are not widely published should include copies of or electronic links to the referenced materials. Responses containing profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

Any information obtained from this RFI is intended to be used by the Government on a non-attribution basis for planning and strategy development. OSTP will not respond to individual submissions. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed. This RFI is not accepting applications for financial assistance or financial incentives.

Comments submitted in response to this notice are subject to the Freedom of Information Act (FOIA). No business proprietary information, copyrighted information, or personally identifiable information should be submitted in response to this RFI. Please be aware that comments submitted in response to this RFI, including the submitter's identification (as noted above), may be posted, without change, on OSTP's or another Federal website or otherwise released publicly.

FOR FURTHER INFORMATION CONTACT: Georgia Lagoudas at *biotech@ostp.eop.gov;* tel: 202–456–4444.

SUPPLEMENTARY INFORMATION:

Background: Through Executive Order 14081, the Federal Government will deliver reports to the President on how biotechnology and biomanufacturing can further societal goals related to health, climate change and energy, food and agricultural innovation, resilient supply chains, and cross-cutting scientific advances. The White House Office of Science and Technology Policy (OSTP) is tasked with developing a plan to implement the recommendations in the reports. Additionally, the Executive Office of the President and Federal agencies are tasked with the development of reports and recommendations related to the biotechnology and biomanufacturing workforce, data to support the bioeconomy, expanding domestic biomanufacturing capacity, and other components to support a strong bioeconomy. A separate request for information will be published regarding biotechnology regulation.

The Executive Order describes four categories where biotechnology and biomanufacturing can further societal goals:

(1) *Health:* biotechnology and biomanufacturing to achieve medical breakthroughs, improve health outcomes, or reduce the overall burden of disease.

(2) *Climate and energy:* biotechnology, biomanufacturing, bioenergy, and biobased products to address the causes of climate change and adapt to and mitigate the impacts of climate change, including by sequestering carbon and reducing greenhouse gas emissions.

(3) *Food and agriculture:* biotechnology and biomanufacturing for food and agricultural innovation, including by improving sustainability and land conservation; increasing food quality and nutrition; increasing agricultural yields; protecting against plant and animal pests and diseases; and cultivating alternative food sources.

(4) *Supply chain resilience:* biotechnology and biomanufacturing across economic sectors to strengthen the resilience of United States supply chains, such as addressing specific supply chain bottlenecks and developing new types of production methods.

OSTP invites input from interested stakeholders, including industry and industry association groups; academic researchers and policy analysts; civil society and advocacy groups; individuals and organizations who work on biotechnology, biomanufacturing, or related topics; and members of the public.

Information Requested: OSTP seeks responses to one, some, or all of the following questions:

Harnessing Biotechnology and Biomanufacturing R&D To Further Societal Goals

1. For any of the four categories outlined above (health, climate and energy, food and agriculture, and supply chain resilience):

a. What specific bold goals can be achieved through advances in biotechnology and biomanufacturing in the short-term (5 years) and long-term (20 years)? *In your answers, please suggest quantitative goals, along with a description of the potential impact of achieving a goal. Listed below are illustrative examples of quantitative goals:*

i. *Develop domestic bio-based routes of production, including the entire supply chain, for X% of active pharmaceutical ingredients.*

ii. *Utilize X tons of sustainable biomass annually as input to biomanufacturing processes to displace Y% of U.S. petroleum consumption.*

b. What research and development (R&D) is needed to achieve the bold goals outlined in (a), with a focus on cross-cutting or innovative advances? How would the Government support this R&D, including through existing Federal programs, creation of new areas of R&D, and/or development of new mechanisms?

c. How else can the Government engage with and incentivize the private sector and other organizations to achieve the goals outlined in (a)?

2. Public engagement and acceptance are of critical importance for successful implementation of biotechnology

solutions for societal challenges. How might social, behavioral, and economic sciences contribute to understanding possible paths to success and any hurdles? What public engagement and participatory models have shown promise for increasing trust and understanding of biotechnology?

Data for the Bioeconomy

3. What data types and sources, to include genomic and multiomic information, are most critical to drive advances in health, climate, energy, food, agriculture, and biomanufacturing, as well as other bioeconomy-related R&D? What data gaps currently exist?

4. How can the Federal Government, in partnership with private, academic, and non-profit sectors, support a data ecosystem to drive breakthroughs for the U.S. bioeconomy? This may include technologies, software, and policies needed for data to remain high-quality, interoperable, accessible, secure, and understandable across multiple stakeholder groups.

Building a Vibrant Domestic Biomanufacturing Ecosystem

5. What is the current state of U.S. and global biomanufacturing capacity for health and industrial sectors and what are the limits of current practice?

6. What can the Federal Government do to expand and scale domestic biomanufacturing capacity and infrastructure? What level of investment would be meaningful and what incentive structures could be employed?

7. What are barriers that must be addressed in order to better enable domestic supply chains for biomanufacturing (*e.g.,* feedstocks, reagents, consumables)?

8. How can the Federal Government partner with state and local governments to expand domestic biomanufacturing capacity, with a particular focus on underserved communities?

Biobased Products Procurement

9. What are new, environmentally sustainable biobased products that the Federal Government could purchase through its BioPreferred Program? How can the Federal Government incentivize development of new categories of sustainable biobased products?

Biotechnology and Biomanufacturing Workforce

10. How can the U.S. strengthen and expand the biotechnology and biomanufacturing workforce to meet the needs of industry today and in the future? What role can government play at the local, state, and/or Federal level?

11. What strategies and program models have shown promise for successfully diversifying access to biomanufacturing and biotechnology jobs—including those involving Historically Black Colleges and Universities, Tribal Colleges and Universities, and other Minority Serving Institutions? What factors have stymied progress in broadening participation in this workforce?

Reducing Risk by Advancing Biosafety and Biosecurity

12. What can the Federal Government do to support applied biosafety research and biosecurity innovation to reduce risk while maximizing benefit throughout the biotechnology and biomanufacturing lifecycles?

13. How can Federal agencies that fund, conduct, or sponsor life sciences research incentivize and enhance biosafety and biosecurity practices throughout the United States and international research enterprises?

Measuring the Bioeconomy

14. What quantitative indicators, economic or otherwise, are currently used to measure the contributions of the U.S. bioeconomy? Are there new indicators that should be developed?

15. How should the North American Industry Classification System and the North American Product Classification System be revised to enable characterization of the economic value of the U.S. bioeconomy? Specifically, which codes or categories do not distinguish between functionally identical bio-based and fossil fuel-based commodities?

International Engagement

16. What are opportunities for the U.S. Government to advance research and development, a skilled workforce, regulatory cooperation, and data sharing for the bioeconomy through international cooperation? Which partnerships and fora are likely key to advance these priority areas?

17. What risks are associated with international biotechnology development and use, and how can the U.S. Government work with allies and partners to mitigate these risks?

Dated: December 15, 2022.

Rachel Wallace,

Deputy General Counsel.

[FR Doc. 2022–27600 Filed 12–19–22; 8:45 am]

BILLING CODE 3270–F1–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96500; File No. SR–NASDAQ–2022–075]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Listing Rules 5605 and 5606

December 14, 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 12, 2022, The Nasdaq Stock Market LLC (''Nasdaq'' or ''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 proposes to simplify implementation and compliance tracking of Listing Rules 5605 and 5606, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/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

On December 1, 2020, the Exchange filed with the Commission a proposed rule change to adopt listing rules to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

advance board diversity and enhance transparency of diversity statistics (''Board Diversity Proposal'').[3] On August 6, 2021 (''Approval Date''), the Commission approved the proposal, as amended (''Board Diversity Rules).[4]

At the time of filing of the Board Diversity Proposal, Nasdaq and listed companies could not know when the proposal would be approved. Since directors typically are elected in connection with the annual shareholder meeting, Nasdaq wanted to assure that listed companies had at least one year from the approval of the rules, or until their next annual meeting, to take necessary actions to satisfy the requirements of the Board Diversity Rules. Therefore, Nasdaq tied the initial compliance deadlines in the Board Diversity Proposal to one year after the approval date.[5] Specifically, on August 8, 2022 (one year after the Approval Date),[6] Nasdaq-listed companies became subject to the first compliance condition: disclosing their Board Diversity Matrix (''Matrix'').[7] Subsequent compliance conditions were similarly scheduled to take effect starting two or more years from the Approval Date.[8]

Nasdaq has found that this formulation of the compliance deadlines is confusing and unnecessarily complicated. Therefore, Nasdaq now proposes to make technical changes to Rule 5605(f)(3) (Alternative Public Disclosure) and Rule 5605(f)(7) (Effective Dates/Transition) to simplify the implementation of the Board Diversity Rules by eliminating references to the Approval Date and the alternative deadline related to the filing of materials for the company's annual meeting, and instead requiring compliance by December 31st of the applicable year. Nasdaq is also proposing to amend Rule 5605(f)(3) to provide additional flexibility in how a company can notify Nasdaq about the alternative public disclosure permissible under that rule.

Additionally, Nasdaq is proposing a technical amendment to Rule 5605(f)(3) to change an erroneous reference to a non-existent Rule 5606(f)(2)(D).

Effective Dates

Pursuant to Rule 5605(f)(7)(A), Nasdaq currently requires each company listed on The Nasdaq Global Select Market, The Nasdaq Global Market and The Nasdaq Capital Market (including a Company with a smaller board under Rule 5606(f)(2)(D)) to have, or explain why it does not have, at least one Diverse[9] director by the later of: (i) two calendar years after the Approval Date, which is August 7, 2023 or (ii) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10–K or 20–F) for the Company's annual shareholders meeting during the calendar year of the First Effective Date,[10] which can be no later than December 31, 2023. The Exchange is proposing to replace this deadline with December 31, 2023, which is the deadline under the current rule for a company with a December 31st fiscal year-end to hold its annual shareholder meeting during the calendar year of the First Effective Date.

Similarly, pursuant to Rule 5605(f)(7)(B), Nasdaq currently requires all companies listed on The Nasdaq Global Select Market or The Nasdaq Global Market to have, or explain why it does not have, at least two Diverse directors by the later of: (i) four calendar years after the Approval Date (''Second NGS/NGM Effective Date''), which is August 6, 2025 or (ii) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10–K or 20–F) for the Company's annual shareholders meeting during the calendar year of the Second NGS/NGM Effective Date, which can be no later than December 31, 2025. The Exchange is proposing to replace this deadline with December 31, 2025, which is the deadline under the current rule for a company with a December 31st fiscal year-end to hold its annual shareholder meeting during the calendar year of the Second NGS/NGM Effective Date.

Lastly, Rule 5605(f)(7)(C) currently requires each Company listed on The Nasdaq Capital Market to have, or explain why it does not have, at least two Diverse directors by the later of: (i) five calendar years after the Approval Date (''Second NCM Effective Date''), which is August 6, 2026 or (ii) the date the Company files its proxy statement or its information statement (or, if the Company does not file a proxy, in its Form 10–K or 20–F) for the Company's annual shareholders meeting during the calendar year of the Second NCM Effective Date, which is no later than December 31, 2026. The Exchange is proposing to replace this deadline with December 31, 2026, which is the deadline under the current rule for a company with a December 31st fiscal year-end to hold its annual shareholder meeting during the calendar year of the Second NCM Effective Date.

Nasdaq is also proposing to align the proposed December 31st deadlines for Rule 5605(f)(7) with the Rule 5606(f)(3) deadline for companies to explain why they do not meet the diversity objectives of Rule 5606(f)(2). Therefore, Nasdaq is proposing to amend Rule 5606(f)(3) to allow for companies to provide such disclosure on or before December 31st.

Additionally, Rule 5606(e) provides a deadline for a company's initial Matrix disclosure and requires a company to annually disclose the Matrix thereafter, but the current rule does not provide a specific deadline for subsequent disclosures, other than that such disclosure must be made in the same manner as, and concurrently with, the disclosure required in Rule 5605(f)(3) for those companies that are subject to that provision. Therefore, Nasdaq is proposing to modify Rule 5606(b) to specify the method of disclosure, which is the same as outlined in Rule 5605(f)(3), and the December 31st annual deadline for the required Matrix disclosure.

Nasdaq believes that using December 31st as the applicable deadline for various elements of the diversity objectives of Rule 5605(f) and Matrix disclosure of Rule 5606 aligns these deadlines with the end of the fiscal year for most companies,[11] which is also the deadline for those companies to hold their annual meeting under Nasdaq's rules.[12] As such, Nasdaq believes that aligning the deadline for these disclosures with the December 31st

[3] *See* Securities Exchange Act Release No. 90574 (December 4, 2020), 85 FR 80472 (SR–NASDAQ–2020–081).

[4] Securities Exchange Act Release No. 92590 (August 6, 2021), 86 FR 44424 (August 12, 2021) (Approval order). Nasdaq filed an amendment to the proposal on February 26, 2021. *See* Amendment No. 1, available on the Commission's website at: *https://www.sec.gov/comments/srnasdaq-2020-081/srnasdaq2020081-8425992-229601.pdf.* Pursuant to Rule 5605(f)(1), ''Approval Date'' means the date that the Commission issued an order granting the approval of this proposed Rule 5605(f).

[5] *See* Rule 5605(f)(1); *see also* Rule 5605(f)(7) and 5606(e).

[6] The Approval Date became August 8, 2022 because August 6, 2022 was a Saturday.

[7] *See* Rule 5606.

[8] *See* Rule 5605(f)(7).

[9] Pursuant to Rule 5605(f)(1), ''Diverse'' means an individual who self-identifies in one or more of the following categories: Female, Underrepresented Minority, or LGBTQ+. ''Female'' means an individual who self-identifies her gender as a woman, without regard to the individual's designated sex at birth.

[10] The ''First Effective Date'' is defined as two calendar years after the Approval Date. *See* Rule 5605(f)(7)(A).

[11] Approximately 80% of Nasdaq-listed companies subject to the rule have a December 31st fiscal year-end.

[12] *See* Rule 5620 (requiring most listed companies to hold an annual meeting of shareholders no later than one year after the end of the Company's fiscal year-end). Under Rules 5605(f)(3) and 5606(b), companies can include disclosure about why they do not meet the applicable diversity objectives of Rule 5605(f)(2) and the Matrix in the proxy or information statement for their annual meeting.

deadline for most companies to hold the annual meeting will simplify both compliance and compliance monitoring with these rules.[13] In that regard, Nasdaq notes that while companies tend to hold their annual meetings at a similar time each year, they are not required to do so, and do not necessarily file their proxies or information statements at the same time each year. Moreover, neither Nasdaq nor investors know ahead of time when a company will file their proxy statements or information statements. Establishing a single deadline for all companies will therefore simplify Nasdaq's ability to review for instances of non-compliance and give investors a final date to expect a company's disclosure.

Notice to Nasdaq

Currently, if a Nasdaq-listed company posts its Matrix disclosure or its explanation for why the company does not satisfy the diverse director objective on its website, then the company must also submit a URL link to the disclosure through the Nasdaq Listing Center within one business day after posting on the company's website.[14] To provide additional flexibility to companies, Nasdaq is proposing to also allow companies to submit the URL link via email to ''*drivingdiversity@nasdaq.com*''. Nasdaq notes that providing the additional alternative may simplify compliance for companies and will not affect Nasdaq's ability to review for instances of non-compliance.

Technical Changes

Nasdaq is proposing a technical amendment to Rule 5605(f)(3) to change an erroneous reference to a non-existent Rule 5606(f)(2)(D). The reference was intended to be 5605(f)(2)(D). Nasdaq is also proposing to remove Rule 5606(e) since the rule became effective and operative over a year ago and Nasdaq believes the provision is no longer relevant.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[15] in general, and furthers the objectives of section 6(b)(1) of the Act,[16] in particular, in that the Exchange is organized and has the capacity to be able to carry out the purposes of the Act and to comply and enforce compliance by its members and persons associated with its member. The Exchange believe the proposal is also consistent with section 6(b)(5) of the Act,[17] 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.

It is consistent with the Act to amend Rule 5605(f)(7) governing the effective dates of the Diverse director objective. When proposing changes to its rulebook, Nasdaq must ensure that the changes remain consistent with other provisions. Presently, companies that opt to publish the alternative public disclosure rather than satisfy the Diverse director objective must do so in the same manner, and concurrently with Rule 5606—the Matrix disclosure.[18] The proposed amendments to Rule 5605(f)(7) aligns the annual deadline for companies that opt to explain why they do not satisfy the Diverse director objective with the proposed annual deadline for the Matrix. Companies will continue to have the option of publishing the disclosure sooner than the proposed December 31st deadline.

Similarly, the Exchange's proposal to amend its rule requiring Nasdaq-listed companies to publicly disclose board diversity statistics using the Matrix, or a substantially similar format, at Rule 5606(e), is consistent with the Act. Clarifying the date for subsequent Matrix disclosures ensures that all Nasdaq-listed companies will disclose a Matrix during each calendar year. Additionally, proposing December 31st as the deadline each year simplifies compliance and more closely aligns the deadline with the end of the fiscal year for most companies, which is also their deadline to hold an annual meeting. Moreover, this revised formulation provides all Nasdaq-listed companies with the same compliance deadline, which is the same as the latest calendar date for compliance under the current rule.[19] As discussed above, Companies will continue to have the option of publishing the disclosure sooner than the proposed December 31st deadline. Nasdaq also believes that having the same annual deadline date for all companies will simplify Nasdaq's ability to track non-compliant companies and give investors a final date to expect a company's disclosure.

Additionally, it is consistent with the Act to amend Rule 5605(f)(3) to give companies an additional alternative for submitting the URL link to their disclosures. The additional option of submitting the URL via email simplifies compliance and gives companies flexibility in meeting their requirements. Moreover, there will be no impact on Nasdaq's ability to review for instances of non-compliance.

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. All companies would continue to be required to make the same disclosure of their board-level statistical information and will have the same deadline for that disclosure. Additionally, all companies would be given the same flexibility of alternatively submitting the URL link to their disclosure via email. Similarly, all companies would be given the same maximum amount of time to publish their Matrix and to satisfy the Diverse director objective.

Moreover, none of the proposed changes will unduly burden intra-market competition among various Exchange participants. Participants will experience no competitive impact from the proposals, as these proposals are merely intended to assist companies in maintaining compliance with the Board Diversity Rules by providing additional flexibility, clarifying certain provisions, and maintaining consistency among the provisions.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[20] and

[13] Of course, companies will continue to be able to comply earlier than the proposed December 31st deadline.

[14] *See* Rule 5605(f)(3).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(1).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* Rule 5605(f)(3) and Rule 5606(b).

[19] Currently, all Nasdaq-listed companies are required to file an annual proxy or information statement by the end of the company's fiscal year. The end of the fiscal year for most Nasdaq-listed companies is December 31st. Therefore, Nasdaq is proposing to simplify the deadlines by aligning the Board Diversity Rule deadlines with the most company's fiscal year end.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–NASDAQ–2022–075.

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–NASDAQ–2022–075. 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–NASDAQ–2022–075, and should be submitted on or before January 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27497 Filed 12–19–22; 8:45 am]

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[21] 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.

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–312, OMB Control No. 3235–0354]

Proposed Collection; Comment Request; Extension: Rule 19b–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 19(b) of the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–19(b)) authorizes the Commission to regulate registered investment company (''fund'') distributions of long-term capital gains made more frequently than once every twelve months. Accordingly, rule 19b–1 under the Act (17 CFR 270.19b–1) regulates the frequency of fund distributions of capital gains. Rule 19b–1(c) states that the rule does not apply to a unit investment trust (''UIT'') if it is engaged exclusively in the business of investing in certain eligible securities (generally, fixed-income securities), provided that: (i) the capital gains distribution falls within one of five categories specified in the rule[1] and (ii) the distribution is accompanied by a report to the unitholder that clearly describes the distribution as a capital gains distribution (the ''notice requirement'').[2] Rule 19b–1(e) permits a fund to apply to the Commission for permission to distribute long-term capital gains that would otherwise be prohibited by the rule if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution.[3] An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application.

Commission staff estimates that one fund will file an application under rule 19b–1(e) each year.[4] The staff understands that if a fund files an application it generally uses outside counsel to prepare the application. The cost burden of using outside counsel is discussed in Item 13 below. The staff estimates that, on average, a fund's investment adviser would spend approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel at a cost of $510 per hour and 0.5 hours by an administrative assistant at a cost of $89 per hour, and the fund's board of directors would spend an additional 1 hour at a cost of $4,770 per hour, for a total of 5 hours.[5] Thus, the staff

[1] 17 CFR 270.19b–1(c)(1).

[2] The notice requirement in rule 19b–1(c)(2) supplements the notice requirement of section 19(a) [15 U.S.C. 80a–19(a)], which requires any distribution in the nature of a dividend payment to be accompanied by a notice disclosing the source of the distribution.

[3] Rule 19b–1(e) also requires that the application comply with rule 0–2 [17 CFR 270.02] under the Act, which sets forth the general requirements for papers and applications filed with the Commission pursuant to the Act and rules thereunder.

[4] This estimate is based on the average number of applications filed with the Commission pursuant to rule 19b–1(e) in the prior three-year period.

[5] The estimate for assistant general counsels is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The estimate for administrative assistants is from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff previously estimated in 2009 that the average cost of board of director time was $4,000 per hour for the board as a whole, based on information received from funds and their counsel. Adjusting for

estimates that the annual hour burden of the collection of information imposed by rule 19b–1(e) would be approximately five hours per fund, at a cost of $6,599.50.[6] Because the staff estimates that, each year, one fund will file an application pursuant to rule 19b–1(e), the total burden for the information collection is 5 hours at a cost of $6,599.50.

Commission staff estimates that there is no hour burden associated with complying with the collection of information component of rule 19b–1(c). This estimate assumes that UITs using rule 19b–1(c) do not have their own employees or staff and that the mechanics of the notice requirement would be handled by a UIT sponsor or trustee as an accommodation for the UIT. As such, the costs related to this aspect of the collection of information are captured in the external cost estimates below.

As noted above, Commission staff understands that funds that file an application under rule 19b–1(e) generally use outside counsel to prepare the application.[7] The staff estimates that, on average, outside counsel spends 10 hours preparing a rule 19b–1(e) application, including eight hours by an associate and two hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as $531 per hour, based on information received from funds, intermediaries, and their counsel. The staff therefore estimates that the average cost of outside counsel preparation of the rule 19b–1(e) exemptive application is $5,310.[8] Because the staff estimates that, each year, one fund will file an application pursuant to rule 19b–1(e), the total annual cost burden imposed by the exemptive application requirements of rule 19b–1(e) is estimated to be $5,310.

The Commission staff estimates that there are approximately 1,779 UITs that may rely on rule 19b–1(c) to make capital gains distributions.[9] The staff estimates that, on average, these UITs rely on rule 19b–1(c) once a year to make a capital gains distribution.[10] In most cases, the trustee of the UIT is responsible for preparing and sending the notices that must accompany a capital gains distribution under rule 19b–1(c)(2). These notices require limited preparation, the cost of which accounts for only a small, indiscrete portion of the comprehensive fee charged by the trustee for its services to the UIT. The staff believes that as a matter of good business practice, and for tax preparation reasons, UITs would collect and distribute the capital gains information required to be sent to unitholders under rule 19b–1(c) even in the absence of the rule. The staff estimates that the cost of preparing and distributing a notice for a capital gains distribution under rule 19b–1(c)(2) is approximately $50.[11] Thus, the staff estimates that the capital gains distribution notice requirement imposes an annual cost on UITs of approximately $88,950.[12] The staff therefore estimates that the total cost imposed by rule 19b–1 is $94,260.[13]

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 control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by February 21, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: December 14, 2022.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27488 Filed 12–19–22; 8:45 am]

BILLING CODE 8011–01–P

inflation, the staff estimates that the current average cost of board of director time is approximately $4,770.

[6] This estimate is based on the following calculations: $1,785 (3.5 hours × $510 = $1,785) plus $44.5 (0.5 hours × $89 = $44.5) plus $4,770 equals $6,599.50 (cost of one application).

[7] This understanding is based on conversations with representatives from the fund industry.

[8] This estimate is based on the following calculation: 10 hours multiplied by $531per hour equals $5,310.

[9] *See* 2022 Investment Company Fact Book, Investment Company Institute, *available at https://www.icifactbook.org/pdf/2022_factbook.pdf* (totaling the number of taxable debt and tax-free debt UITs presented in Table 14).

[10] The number of times UITs rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly across years and UITs. UITs may distribute capital gains biannually, annually, quarterly, or at other intervals. Additionally, a number of UITs are organized as grantor trusts, and therefore do not generally make capital gains distributions under rule 19b–1(c), or may not rely on rule 19b–1(c) as they do not meet the rule's requirements.

[11] Although the $50 estimate is consistent with prior renewals it is possible that the actual costs have decreased over time as a result of electronic automation or other efficiencies. In an abundance of a caution, and for purposes of this Paperwork Reduction Act renewal, we are assuming on a conservative basis that this cost has not changed.

[12] This estimate is based on the following calculation: 1,779 UITs multiplied by $50 equals $88,950.

[13] This estimate is based on the following calculation: $88,950 (total cost associated with rule 19b–1(c)) + $5,310 (total cost associated with rule 19b–1(e)) = $94,260.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96499; File No. SR–NYSEARCA–2022–80]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.19–E

December 14, 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 Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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–E 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.19–E 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–E (Pre-Trade Risk Controls),[4] which established a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms [5] could set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded. Specifically, the Exchange added a Gross Credit Risk Limit, a Single Order Maximum Notional Value Risk Limit, and a Single Order Maximum Quantity Risk Limit [6] (collectively, the ''2020 Risk Controls'').

The Exchange now proposes to expand the list of the optional pre-trade risk controls available to Entering Firms by adding several additional pre-trade risk controls that would provide Entering Firms with enhanced abilities to manage their risk with respect to orders on the Exchange. Like the 2020 Risk Controls, use of the pre-trade risk controls proposed herein is optional, but all orders on the Exchange would pass through these risk checks. As such, an Entering Firm that does not choose to set limits pursuant to the new proposed pre-trade risk controls would not achieve any latency advantage with respect to its trading activity on the Exchange. In addition, the Exchange expects that any latency added by the pre-trade risk controls would be *de minimis.*

The proposed new pre-trade risk controls proposed herein would be available to be set by Entering Firms only. Clearing Firms designated by an Entering Firm would continue to be able to view all pre-trade risk controls set by the Entering Firm and to set the 2020 Risk Controls on the Entering Firm's behalf.

Proposed Amendment to Rule 7.19–E

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

[4] *See* Securities Exchange Act Release No. 88904 (May 19, 2020), 85 FR 31560 (May 26, 2020) (SR–NYSEArca–2020–43).

[5] The terms ''Entering Firm'' and ''Clearing Firm'' are defined in Rule 7.19–E.

[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–E.

[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.

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–E(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–E(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 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 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.

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

[9] *See* 17 CFR 240.15c3–5.

[10] *See also* Commentary .01 to Rule 7.19–E, 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).

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 7.

[14] *See supra* note 8.

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.

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–NYSEARCA–2022–80 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2022–80. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–80 and should be submitted on or before January 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27500 Filed 12–19–22; 8:45 am]

BILLING CODE 8011–01–P

[15] LOC Orders are not subject to the Limit Order Price Protection in Rule 7.31–E(a)(2)(B).

[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).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17677 and #17678; Illinois Disaster Number IL–00071]

Presidential Declaration Amendment of a Major Disaster for the State of Illinois

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Illinois (FEMA–4676–DR), dated 10/14/2022.

Incident: Severe Storm and Flooding.

Incident Period: 07/25/2022 through 07/28/2022.

DATES: Issued on 12/15/2022.

Physical Loan Application Deadline Date: 12/22/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 07/14/2023.

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: The notice of the President's major disaster declaration for the State of Illinois, dated 10/14/2022, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/22/2022.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–27608 Filed 12–19–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 11940]

Private Sector Participation in Domestic and International Events on Spaceflight Safety, Sustainability, and Emerging Markets in Outer Space

ACTION: Notice.

SUMMARY: The U.S. Department of State seeks private sector participation in a series of domestic and international events promoting space commerce as well as implementation of best practices for the peaceful uses of outer space for civil and commercial activities in a safe and responsible manner. These events and the participation of the commercial space sector, academia and other non-governmental organizations will assist the Department of State in fulfilling its responsibilities pursuant to the 2020 National Space Policy and the 2021 United States Space Priorities Framework.

DATES: Participants will serve as private sector advisors to U.S. delegations to one or more workshops, meetings, symposia, and other international events related to safety, sustainability, and emerging markets in outer space until December 31, 2023.

ADDRESSES: Solicitations for private sector participation in specific events, including event dates and locations, will be posted at least 30 days prior to the event on *https://www.state.gov/remarks-and-releases-bureau-of-oceans-and-international-environmental-and-scientific-affairs/.*

FOR FURTHER INFORMATION CONTACT: Ryan Guglietta, Foreign Affairs Officer, Office of Space Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20522, phone 860–573–0708, or email *gugliettart@state.gov.*

SUPPLEMENTARY INFORMATION: Events will vary in location and format, to include fully online, hybrid, and in-person activities. Short notice modification of plans may be required in response to pandemic precautions. Meetings may be stand alone or on the margins of related events, which may include, but are not limited to, the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) Scientific and Technical Subcommittee (STSC) in Vienna in February 2023, the UNCOPUOS Legal Subcommittee (LSC) in Vienna in March 2023, the UNCOPUOS plenary in Vienna in June 2023, and workshops, conferences, or other meetings organized by the UN Office of Outer Space Affairs. There may also be additional opportunities to provide expert views related to domestic policies and U.S. positions in other international diplomatic fora. Please note that approximately two to four applicants are expected to be selected for each UNCOPUOS meeting, depending on the size of the overall U.S. delegation. Participants should focus on the following:

Safety: Identify key safety issues for crewed and/or uncrewed outer space operations. Discuss current attempts to address these issues and suggest new concerns that may develop as private sector space activities advance and evolve.

Sustainability: Explore efforts to promote responsible behavior in space. Examine best practices and guidelines aimed at preserving the outer space environment for future space investment, exploration and use. In particular, implementation of the 2019 UNCOPUOS Long-Term Sustainability (LTS) guidelines and the multi-nation Artemis Accords should be considered.

Emerging Markets: Discuss the challenges to an economically viable space industry and how these challenges relate to the domestic regulatory and international governance frameworks. Share recent advances within the commercial space sector and how they may develop in the future. Evaluate how an expanding commercial sector may affect equities like terrestrial based astronomy, planetary protection, orbital debris mitigation, and other aspects of safe and sustainable operations in outer space.

Valda Vikmanis-Keller,

Director, Office of Space Affairs, Department of State.

[FR Doc. 2022–27621 Filed 12–19–22; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 730 (Sub-No.1)]

Roster of Arbitrators—Annual Update

Pursuant to 49 U.S.C. 11708, the Board's regulations establish a voluntary and binding arbitration process to resolve rail rate and practice complaints that are subject to the Board's jurisdiction. Section 11708(f) provides that, unless parties otherwise agree, an arbitrator or panel of arbitrators shall be selected from a roster maintained by the Board. Accordingly, the Board's rules establish a process for creating and maintaining a roster of arbitrators. 49 CFR 1108.6(b).

The Board most recently updated its roster of arbitrators by decision served February 15, 2022. The roster is published on the Board's website at *www.stb.gov* (click the ''Resources'' tab, select ''Litigation Alternatives'' from the dropdown menu, and then click on the ''Arbitration'' link).

As provided under 49 CFR 1108.6(b), the Board updates the roster of arbitrators annually. Accordingly, the Board is now requesting the names and qualifications of new arbitrators who wish to be placed on the roster. Current arbitrators who wish to remain on the roster must notify the Board of their

continued availability and confirm that the biographical information on file with the Board remains accurate and, if not, provide any necessary updates. Arbitrators who do not confirm their continued availability will be removed from the roster. This decision will be served on all current arbitrators.

Any person who wishes to be added to the roster should file an application that describes the applicant's experience with rail transportation and economic regulation, as well as professional or business experience, including agriculture, in the private sector. The submission should also describe the applicant's training in dispute resolution and/or experience in arbitration or other forms of dispute resolution, including the number of years of experience. Lastly, the submission should provide the applicant's contact information and information on fees.

All comments—including filings from new applicants, updates to existing arbitrator information, and confirmations of continued availability—should be submitted either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001 by January 19, 2023. The Board will assess each new applicant's qualifications to determine which individuals can ably serve as arbitrators based on the criteria established under 49 CFR 1108.6(b). The Board will then establish an updated roster of arbitrators by no-objection vote. The roster will include a brief biographical sketch of each arbitrator, including information such as background, area(s) of expertise, arbitration experience, and geographical location, as well as contact information and fees. The roster will be published on the Board's website.

It is ordered:

1. Applications from persons interested in being added to the Board's roster of arbitrators, and confirmations of continued availability (with updates, if any, to existing arbitrator information) from persons currently on the arbitration roster, are due by January 19, 2023.

2. This decision will be served on all current arbitrators and published in the **Federal Register**.

3. This decision is effective on the date of service.

Decided: December 15, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2022–27590 Filed 12–19–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1502]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Renewal, Maintenance, Preventive Maintenance, Rebuilding, and Alteration

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected is necessary to insure the safety of the flying public. Documentation of maintenance repair actions record who, what, when, where and how of the task performed. This collection focuses on the Form 337 which is collected by the FAA. Other records for preventative maintenance, and logbook entries are not collected by the FAA serve as a responsibility of the owner to maintain in case of verification of airworthiness when seeking approvals or sale of the aircraft. This insures proper certification of personnel; proper tooling is utilized and accurate measures to insure safety. Total Form 337s submitted in 2017 is 54,237. Total aircraft registrations on file is 289,490. It is estimated by the numbers collected one in every five aircraft have a 337 form submitted for major alteration and repairs performed. Each 337 takes approximately 1 hour.

DATES: Written comments should be submitted by January 16, 2023.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By email: Jude Sellers, *jude.n.sellers@faa.gov.*

SUPPLEMENTARY INFORMATION: All maintenance actions as well as documentation are required by title 14 CFR part 43.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0020.

Title: Maintenance, Preventive Maintenance, Rebuilding, and Alteration.

Form Numbers: Aircraft maintenance logbooks and Form 337.

Type of Review: Renewal of information collection.

Background: Title 14 CFR part 43 mandates information to be provided when an alteration or major repair is performed on an aircraft of United Sates registry. Submission of Form 337 is required for capture in the aircraft permanent records for current and future owners to substantiate the requirements of the regulations, prior to operation of the aircraft. Aircraft owners have the responsibility of documentation and submission of all maintenance records performed to their aircraft.

Respondents: 289,490 Aircraft owners.

Frequency: On occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: Industry Annual burden 54,237 man hours.

Issued in Washington, DC.

Jude Sellers,

Aviation Safety Inspector, AFS–340 General Aviation Maintenance Branch.

[FR Doc. 2022–27602 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0108; FMCSA–2013–0442; FMCSA–2013–0443; FMCSA–2014–0381; FMCSA–2015–0115; FMCSA–2015–0116; FMCSA–2015–0119; FMCSA–2015–0320; FMCSA–2015–0321; FMCSA–2017–0181; FMCSA–2017–0253; FMCSA–2017–0254; FMCSA–2018–0050; FMCSA–2018–0051; FMCSA–2019–0030; FMCSA–2019–0034; FMCSA–2019–0036; FMCSA–2019–0206; FMCSA–2019–0211; FMCSA–2019–0212; FMCSA–2020–0045; FMCSA–2020–0046]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 32 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2013–0108, FMCSA–2013–0442, FMCSA–2013–0443, FMCSA–2014–0381, FMCSA–2015–0115, FMCSA–2015–0116, FMCSA–2015–0119, FMCSA–2015–0320, FMCSA–2015–0321, FMCSA–2017–0181, FMCSA–2017–0253, FMCSA–2017–0254, FMCSA–2018–0050, FMCSA–2018–0051, FMCSA–2019–0030, FMCSA–2019–0034, FMCSA–2019–0036, FMCSA–2019–0206, FMCSA–2019–0211, FMCSA–2019–0212, FMCSA–2020–0045, or FMCSA–2020–0046) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

On May 13, 2022, FMCSA published a notice announcing its decision to renew exemptions for 32 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (87 FR 29430). The public comment period ended on August 13, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based on its evaluation of the 32 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of May and are discussed below.

As of May 15, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 29 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (87 FR 29430):

William Brown (NC)
Frank Corino (NJ)
Barry Dull (OH)
Robert J. Forney (WI)
Scott William Gessner (PA)
Daniel Halstead (NV)
Aaron Harms (MO)
Matthew Heinen (MN)
Logan Hertzler (PA)
Brian Johnson (MN)
Preston R. Kanagy (TN)
Kenneth L. Lewis (NC)
Larry Lintelman (AK)
Kevin Market (OH)
Shane W. Martinek (OK)
Jeffrey Mills (NC)
Gary Olsen (MN)
Randy Pinto (PA)
Matthew Scarlata (NY)
Steven Shirley (UT)
Chad Smith (MA)
Alvin Strite (PA)
Jeffrey Totten (KS)
Paul Vitous (WA)
Thomas B. Vivirito (PA)
Mohammad S. Warrad (IA)
Richard J. Wenner (MN)
Michael R. Weymouth (NH)
Dennis R. Zayic (MN)

The drivers were included in docket number FMCSA–2013–0108, FMCSA–2013–0442, FMCSA–2014–0381, FMCSA–2015–0115, FMCSA–2015–0116, FMCSA–2015–0119, FMCSA–2015–0320, FMCSA–2015–0321, FMCSA–2017–0181, FMCSA–2017–0253, FMCSA–2017–0254, FMCSA–2018–0050, FMCSA–2019–0030, FMCSA–2019–0034, FMCSA–2019–0036, FMCSA–2019–0206, FMCSA–2019–0211, FMCSA–2019–0212, FMCSA–2020–0045, or FMCSA–2020–0046. Their exemptions were applicable as of May 15, 2022 and will expire on May 15, 2024.

As of May 19, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

Ronald Hartl (WI) and Michael Miller (WI).

The drivers were included in docket number FMCSA–2013–0443. Their exemptions were applicable as of May 19, 2022 and will expire on May 19, 2024.

As of May 30, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Nathan Kanouff (GA) has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers.

This driver was included in docket number FMCSA–2018–0051. The exemption was applicable as of May 30, 2022 and will expire on May 30, 2024.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–27539 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0329; FMCSA–2016–0002; FMCSA–2017–0058; FMCSA–2017–0059; FMCSA–2017–0061; FMCSA–2018–0135; FMCSA–2018–0138; FMCSA–2020–0027]

Qualification of Drivers; Exemption Applications; Hearing

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 23 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2015–0329, FMCSA–2016–0002, FMCSA–2017–0058, FMCSA–2017–0059, FMCSA–2017–0061, FMCSA–2018–0135, FMCSA–2018–0138, or FMCSA–2020–0027) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

Background

On November 1, 2022, FMCSA published a notice announcing its decision to renew exemptions for 23 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (87 FR 65849). The public comment period ended on December 1, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

II. Discussion of Comments

FMCSA received no comments in this proceeding.

III. Conclusion

Based upon its evaluation of the 23 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in

§ 391.41 (b)(11).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of October and are discussed below:

As of October 13, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 14 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (87 FR 65849):

Matthew Albrecht (PA)
Cory Adkins (FL)
Richard Blaine (PA)
Jacquelyn Hetherington (OK)
Agustin Hernandez (TX)
Andrew Hippler (ID)
Scott Lufkin (NC)
Paul Mansfield (KS)
Berenice Martinez (TX)
Jose Ramirez (IL)
Thomas Sneer (MN)

Daniel Stroud (UT)
Michael Sweet (GA)
Jason Wynne (TX)

The drivers were included in docket number FMCSA–2015–0329, FMCSA–2016–0002, FMCSA–2017–0058, FMCSA–2017–0059, FMCSA–2017–0061, FMCSA–2018–0135, and FMCSA–2018–0138. Their exemptions were applicable as of October 13, 2022 and will expire on October 13, 2024.

As of October 30, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (87 FR 65849):

Adrian Almanza (IL)
Jimmy Benavides (TX)
James Bryan (AR)
William Heath (NC)
Kenneth Morrison (NY)
Darren Norton (MO)
Marty Posey (IN)
Anthony Vasquez (TX)
Daniel Zeolla (PA)

The drivers were included in docket number FMCSA–2020–0027. Their exemptions were applicable as of October 30, 2022 and will expire on October 30, 2024.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,
Associate Administrator for Policy.

[FR Doc. 2022–27540 Filed 12–19–22; 8:45 am]
BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0038]

Qualification of Drivers; Exemption Applications; Hearing

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 15 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

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

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2022–0038 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2022–0038) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2022–0038), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA-2022-0038.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, (FMCSA–2022–0038) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds

such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 15 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 3, 1971).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, ''Qualification of Drivers; Application for Exemptions; National Association of the Deaf,'' (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

III. Qualifications of Applicants

Sean Brodacz

Sean Brodacz, 32, holds a class DM driver's license in Illinois.

Travis Bunn

Travis Bunn, 42, holds a class D driver's license in Arkansas.

Allen Carrasco

Allen Carrasco, 35, holds a class A CDL in California.

Matthew Kaschalk

Matthew Kaschalk, 41, holds a class D driver's license in Tennessee.

Jennifer Cowan

Jennifer Cowan, 28, holds a class D driver's license in Arkansas.

Chad D'Amore

Chad D'Amore, 21, holds a class C driver's license in Pennsylvania.

Fawina Dieteric

Fawina Dieterich, 43, holds a class E driver's license in Florida.

Kathryn Dych

Kathryn Dych, 34, holds a driver's license in Indiana.

Keith Hulse

Keith Hulse, 51, holds a class DM driver's license in Tennessee.

Alexander Jones

Alexander Jones, 21, holds a class R driver's license in Mississippi.

Claudio Monegro

Claudio Monegro, 32, holds a class C driver's license in Maryland.

Erica Muhm

Erica Muhm, 42, holds a class D driver's license in Kentucky.

Brett Ripp

Brett Ripp, 37, holds a class E driver's license in Florida.

Wayne Todd

Wayne Todd, 62, holds a class A CDL in Nebraska.

Christopher Zrimsek

Christopher Zrimsek, 45, holds a class E driver's license in Florida.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–27536 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0046]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 20 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

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

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2022–0046 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2022–0046) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224,

Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2022–0046), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA-2022-0046.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number (FMCSA–2022–0046) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 20 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication, and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, ''Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders,'' (78 FR 3069), its decision to grant requests from 20 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders

[1] These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Glen Becht

Glen Becht is a 42-year-old class D license holder in Tennessee. He has a history of grand mal seizure and has been seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since 2016. His physician states that he is supportive of Mr. Becht receiving an exemption.

Cassie Caldera

Cassie Caldera is a 33-year-old class R license holder in Colorado. She has a history of generalized convulsive epilepsy and has been seizure free since 2012. She has not taken anti-seizure medication since 2013. Her physician states that she is supportive of Ms. Caldera receiving an exemption.

Joseph Carlisle

Joseph Carlisle is a 42-year-old class A license holder in Illinois. He has a history of juvenile myoclonic epilepsy and has been seizure free over 20 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 6 years. His physician states that he is supportive of Mr. Carlisle receiving an exemption.

Samuel Collins

Samuel Collins is a 61-year-old class B commercial driver's license (CDL) holder in South Carolina. He has a history of epilepsy and has been seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since 2017. His physician states that he is supportive of Mr. Collins receiving an exemption.

Michael Day

Michael Day is a 47-year-old class A CDL holder in Arizona. He has a history of generalized epilepsy and has been seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since 2002. His physician states that he is supportive of Mr. Day receiving an exemption.

Kevin Finan

Kevin Finan is a 35-year-old class D license holder in Ohio. He has a history of juvenile myoclonic epilepsy and has been seizure free for over 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same since 2014. His physician states that he is supportive of Mr. Finan receiving an exemption.

Brian Graham

Brian Graham is a 47-year-old class A CDL holder in Montana. He has a history of generalized epilepsy and has been seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since 2014. His physician states that he is supportive of Mr. Graham receiving an exemption.

Andrew Greenawalt

Andrew Greenawalt is a 24-year-old class C license holder in Pennsylvania. He has a history of seizure disorder and has been seizure free since 2013. He takes anti-seizure medication with the dosage and frequency remaining the same since 2017. His physician states that he is supportive of Mr. Greenawalt receiving an exemption.

Michael McKinlay

Michael McKinlay is a 36-year-old class F license holder in Missouri. He has a history of epilepsy and has been seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. His physician states that he is supportive of Mr. McKinlay receiving an exemption.

Roger Moats

Roger Moats is a 50-year-old class A CDL holder in Oklahoma. He has a history of epilepsy and has been seizure free since 1988. He takes anti-seizure medication with the dosage and frequency remaining the same since 1988. His physician states that he is supportive of Mr. Moats receiving an exemption.

Jordan Moriarty

Jordan Moriarty is a 40-year-old class D license holder in Vermont. He has a history of epilepsy with generalized seizures and has been seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. His physician states that he is supportive of Mr. Moriarty receiving an exemption.

Michael Morris

Michael Morris is a 46-year-old class A CDL holder in Oregon. He has a history of epilepsy and has been seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same for over 12 years. His physician states that he is supportive of Mr. Morris receiving an exemption.

Keith Pitzen

Keith Pitzen is a 65-year-old class A CDL holder in Iowa. He has a history of partial epilepsy with secondary generalized seizures and has been seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since 2011. His physician states that he is supportive of Mr. Pitzen receiving an exemption.

Matthew Raymond

Matthew Raymond is a 34-year-old class B CDL holder in New York. He has a history of epilepsy and has been seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since 1999. His physician states that he is supportive of Mr. Raymond receiving an exemption.

Juan Rios

Juan Rios is a 23-year-old class C license holder in Texas. He has a history of epilepsy and has been seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since 2018. His physician states that he is supportive of Mr. Rios receiving an exemption.

Jason Russell

Jason Russell is a 49-year-old class B license holder in Iowa. He has a history of seizure disorder and has been seizure free since 2001. He takes anti-seizure medication with the dosage and frequency remaining the same since 2019. His physician states that he is supportive of Mr. Russell receiving an exemption.

Reuben Sheets

Rueben Sheets is a 44-year-old class DM license holder in New York. He has a history of remote seizure and has been seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since 2017. His physician states that he is supportive of Mr. Sheets receiving an exemption.

Eric Stucky

Eric Stucky is a 48-year-old class A CDL holder in Utah. He has a history of seizure and has been seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since 2013. His physician states that he is supportive of Mr. Stucky receiving an exemption.

Thomas Weber

Thomas Weber is a 44-year-old class D license holder in New York. He has

a history of seizure disorder and has been seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. His physician states that he is supportive of Mr. Weber receiving an exemption.

Daniel White

Daniel White is a 46-year-old class A CDL holder in Nebraska. He has a history of seizure disorder and has been seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since 2019. His physician states that he is supportive of Mr. White receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–27538 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2022–0045]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 13 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on December 12, 2022. The exemptions expire on December 12, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, (FMCSA–2022–0045) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

On November 1, 2022, FMCSA published a notice announcing receipt of applications from 13 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (87 FR 65847). The public comment period ended on December 1, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes allow the Agency to renew exemptions at the end of the 5-year period. However, FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the 2007 recommendations of the Agency's Medical Expert Panel. The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the commercial driver's license Information System for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. A summary of each applicant's seizure history was discussed in the November 1, 2022, **Federal Register** notice (87 FR 65847) and will not be repeated in this notice.

These 13 applicants have been seizure-free over a range of 8 to 38 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified their seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds further that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) would likely achieve a level of safety equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5T; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 13 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition in § 391.41(b)(8), subject to the requirements cited above:

Diane Berggren (OR)
Ryan Freedman (MI)
Jake Higginbotham (NV)
Keith Maat (KS)
Andrew Rieschick (NV)
David Shively (VA)
Carsten Thode (WA)
Ralph Bollman (PA)
Jared Friedman (NY)
Matthew Jacobson (PA)
Matthew Raymond (NY)
Steven Schultz (IL)
Stephen St. Marthe (NC)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–27537 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Solicitation of Corridor Proposals and Funding Opportunity for the Corridor Identification and Development Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of solicitation and funding opportunity (notice).

SUMMARY: This notice details the application requirements and procedures for the selection of eligible corridors to participate in the Corridor Identification and Development Program and obtain grant funding appropriated in fiscal year 2022. This notice solicits applications for the Corridor Identification and Development Program funds made available by the Infrastructure Investment and Jobs Act and subsequent appropriations. The opportunity described in this notice is made available under Assistance Listings Number 20.326, ''Federal-State Partnership for Intercity Passenger Rail.''

DATES: Applications for selection and funding under the Corridor Identification and Development program (Corridor ID Program or Program) under this notice are due no later than 5 p.m. ET, March 20, 2023. Applications that are incomplete or received after 5 p.m. ET on March 20, 2023 will not be considered. See section (D) of this notice for additional information on the application process.

ADDRESSES: Applications must be submitted via *www.Grants.gov.* Only applicants who comply with all submission requirements described in this notice and submit applications through *www.Grants.gov* will be eligible for selection and award under the Corridor ID Program.

FOR FURTHER INFORMATION CONTACT: For further information related to this notice, please contact Peter Schwartz, Acting Director, Office of Railroad Planning and Engineering, by email: *PaxRailDev@dot.gov* or by telephone: 202–493–6360.

SUPPLEMENTARY INFORMATION:

Notice to applicants: FRA recommends that applicants read this notice in its entirety prior to preparing application materials. Definitions of key terms used throughout the notice are provided in section (A)(2) below. These key terms are capitalized throughout the notice. There are several administrative prerequisites and specific eligibility requirements described herein with which applicants must comply. Additionally, applicants should note that the required Corridor Narrative component of the application package may not exceed 15 pages in length.

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A. Program Description

1. Executive Summary

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL). Public Law 117–58. The BIL authorized the Secretary of Transportation to establish the Corridor ID Program to

facilitate the development of intercity passenger rail corridors. 49 U.S.C. 25101(a). The BIL also provided an historic, unprecedented level of funding for the improvement and expansion of intercity passenger rail service. Infrastructure Investment and Jobs Act, Public Law 117–58, div. J, title VIII (Nov. 15, 2021). The Federal Railroad Administrator is delegated the authority to establish and administer the Corridor ID Program. 49 CFR 1.89(a).

FRA conducted extensive outreach in connection with the new Corridor ID Program. FRA published a Request for Information in the **Federal Register** on February 7, 2022, seeking comments on the Program and how it can best serve stakeholders and the public. FRA–2022–0006–0001. FRA also conducted three listening sessions on the Corridor ID Program, on February 16 and 17, 2022, with eligible entities, host railroads, and other stakeholders, respectively. In compliance with BIL requirements, 49 U.S.C. 25101(a), FRA published a **Federal Register** notice on May 13, 2022, that formally established the Program, provided a general description of Program components, and highlighted FRA's intent to publish a notice in the last calendar quarter of 2022 soliciting proposals for Corridors to participate in the Program. 87 FR 29432. In that notice, FRA encouraged further stakeholder engagement by requesting that interested eligible entities submit expressions of interest to the FRA, in advance of FRA's formal solicitation, to facilitate further discussions.

In this notice, FRA is now soliciting proposals for Corridors for selection and funding in the initial round of the Corridor ID Program.

2. Definitions of Key Terms

Terms defined in this section are capitalized throughout this notice.

1. ''Implementation'' means the final design and construction lifecycle stages of a project, as described in FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*[1]

2. ''Intercity Passenger Rail Corridor'' and ''Corridor'' mean:

a. A new intercity passenger rail route of less than 750 miles;

b. The enhancement of an existing intercity passenger rail route of less than 750 miles;

c. The restoration of service over all or portions of an intercity passenger rail route formerly operated by Amtrak; or

d. The increase of service frequency of a long-distance intercity passenger rail route.

3. ''Project Development'' means the lifecycle stage of a project when design, environmental, and other studies are conducted, as described in FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*

4. ''Project Planning'' means the lifecycle stage of a project when project concepts are developed to establish the type and scope of capital improvements, as described in FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*

5. ''Step 1'' means the initiation of a grantee's Corridor development efforts under the Program and the development of a scope, schedule, and cost estimate for preparing a service development plan (SDP) for a Corridor.

6. ''Step 2'' means the preparation of an SDP (or an update to an existing SDP) to complete Project Planning work consistent with FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*

7. ''Step 3'' means the preparation of documentation to complete Project Development work required to ready the Corridor (or phase of the Corridor) for Implementation, including project designs that are reasonably expected to conform to all regulatory, safety, security, and other design requirements, including those under the American with Disabilities Act. Such work includes the completion of preliminary engineering (PE) and National Environmental Policy Act (NEPA) activities, and other documentation for the Corridor's capital project(s) to advance to Implementation, consistent with FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*

3. Overview

The Corridor ID Program is a comprehensive intercity passenger rail planning and development program that will help guide intercity passenger rail development throughout the country and create a pipeline of intercity passenger rail projects ready for Implementation. Unlike previous Federal intercity passenger rail planning efforts, the Corridor ID Program is intended both to support a sustained long-term development effort, and to set forth a capital project pipeline ready for Federal (and other) funding. The Corridor ID Program is intended to become the primary means for directing Federal financial support and technical assistance toward the development of proposals for new or improved intercity passenger rail services throughout the United States.

FRA's selection of a Corridor to participate in the Program reflects the agency's interest in advancing the Corridor to Implementation and operation, as well as an FRA decision to fund planning and development activities for the Corridor (as further detailed in this notice). FRA will consider Corridor applications for entirely undeveloped concepts for new or improved Corridors, and for concepts that have been the subject of past or ongoing planning and development efforts.[2] For the latter, selection into the Corridor ID Program will provide the opportunity to complete or update the prior Corridor planning and development efforts.

Applicants may submit applications for more than one Corridor, under separate submissions. In every submission, FRA encourages applicants to reflect the full scope of the proposed Corridor. As described in section (D)(2)(a)(v), applications must address the applicant's interest in the potential scaling of a Corridor proposal and/or phasing of its Implementation as well as the prioritization of Corridors (where an applicant submits applications for multiple Corridors). As described in section (E)(2), prior to Corridor selection, FRA may (at its sole discretion) engage in a discussion with an applicant on potential Corridor scaling, geographic overlaps between Corridors, and the prioritization of Corridor proposals (for applicants with multiple proposed Corridors). These discussions may result in FRA changes to the scope, phasing, or prioritization of a Corridor as proposed in the application. FRA will not select a modified Corridor proposal to participate in the Program without an applicant's concurrence.

[1] FRA published the proposed Guidance on Development and Implementation of Railroad Capital Projects in the **Federal Register** on June 28, 2022. 87 FR 38451; FRA Docket No. FRA–2022–0035. FRA anticipates that the final Guidance will be published in the **Federal Register** soon. The final Guidance will also be made available in FRA Docket No. FRA–2022–0035. For further information related to this notice's reference to the Guidance, please contact Peter Schwartz, Acting Director, Office of Railroad Planning and Engineering, by email: *PaxRailDev@dot.gov* or by telephone: 202–493–6360.

[2] Section 22214 of the BIL also requires FRA to conduct the Amtrak Daily Long-Distance Service Study (Long-Distance Study) to evaluate the restoration of Amtrak daily long-distance services to include Amtrak routes that have been discontinued, current Amtrak routes that occur on a nondaily basis, and potentially new Amtrak long-distance routes. The Long-Distance Study is required to develop a prioritized inventory of capital projects for preferred options for restoring or enhancing services. Some of the Corridors that the Long-Distance Study may assess include ones that are eligible under the Corridor ID Program.

Corridor proposals may vary in scope and may include introducing entirely new intercity passenger rail services (using existing or new rail lines); significantly improving existing services (*e.g.,* geographic extensions, added frequencies, or reduced travel times); or incremental improvements to existing services. FRA strongly encourages sponsors and/or operators of existing intercity passenger rail services that anticipate pursuing Federal funding for capital projects aimed at improving that service to submit applications to the Corridor ID Program to benefit from the advantages of the Program described in this notice.

In addition, FRA strongly encourages all applicants that have previously undertaken or are in the process of undertaking development activities for a Corridor, with the intent of seeking Federal funding for Implementation, to submit applications for those Corridors under this notice. FRA will review any previous Corridor development work to assess whether it is adequate and appropriate, including whether it reflects current conditions, with the aim of incorporating existing work under this Program to the greatest extent practicable.

In keeping with the long-range orientation of the Corridor ID Program, and subject to the availability of funding, FRA anticipates issuing subsequent notices soliciting Corridor proposals at regular intervals to allow opportunities for additional Corridors to participate in the Program. This approach allows for a consistent introduction of new Corridors into the Corridor ID Program for development.

4. Corridor Development Steps

For Corridors selected to participate in the Corridor ID Program under this notice, Corridor development will occur in three, sequenced steps: Step 1, Step 2, and Step 3.

a. Step 1—Corridor Development Initiation and Scope, Schedule, and Cost Estimate for Preparing a Service Development Plan

Step 1 initiates the grantee's Corridor development efforts under the Program by preparing a scope, schedule, and cost estimate for developing an SDP, or updating an existing SDP, for the selected Corridor.[3] Step 1 also includes the grant recipient's development of its capability and capacity (including securing initial staff, contractor support, and non-Federal financial resources) necessary to support successfully preparing the SDP and conducting Step 3 activities, as appropriate. With the support of these initial resources, the grantee will work in collaboration with FRA to develop a scope, schedule, and cost estimate for preparing an SDP. FRA expects that selected Corridors will vary in geographic scope, scale, characteristics of new intercity passenger rail service or service improvement, and previous development work. Therefore, as part of Step 1, FRA and the grantee will collaborate to determine the level of effort required to successfully prepare or update an SDP, which will be reflected in the scope, schedule, and cost estimate.

The scope, schedule, and cost estimate will also identify the work product and deliverables the grantee will prepare and the sequence for preparing those documents; the appropriate level and timing of public and agency involvement in developing the SDP; and the process the grantee will engage in when developing an SDP to ensure logical decision-making and appropriate engagement. When developing the scope for the SDP, FRA and the grantee will seek opportunities for the SDP to maximize efficiencies in subsequent NEPA processes undertaken for the Corridor. FRA will determine when the grantee has successfully completed Step 1.

b. Step 2—Service Development Plan

After the grantee has successfully completed Step 1 and secured the required cost share funding (see section (C)(3) below), the Corridor will advance to Step 2—preparing an SDP (or updating an existing SDP). Preparing an SDP for a selected Corridor, through a partnership between FRA and the grantee as required by 49 U.S.C. 25101(d), is a central undertaking under the Corridor ID Program. In addition, the grantee and FRA will partner with relevant States and Amtrak, as appropriate, in connection with the preparation of the SDP. 49 U.S.C. 25101(d).

Through engaging in Project Planning, the SDP will determine and document how the Corridor will be implemented. As such, preparing the SDP will identify the draft purpose and need for intercity passenger rail development and will incorporate an analysis of alternatives—that may vary, as applicable, in terms of geographic route, service characteristics, and required capital projects—for implementing the Corridor. The analysis of alternatives will be supported by technical transportation planning and conceptual engineering; high-level analysis and consideration of environmental factors associated with the alternatives; and input provided through public involvement (please see DOT's Promising Practices for Meaningful Public Involvement in Transportation Decision-Making at *https://www.transportation.gov/priorities/equity/promising-practices-meaningful-public-involvement-transportation-decision-making*), coordination with relevant public agencies, and, as appropriate, consultation with Federally recognized Indian tribes. The SDP will also identify the governance structure for the Implementation and operation of the Corridor.

Because an SDP must include a ''Corridor project inventory that identifies the capital projects necessary to achieve the proposed service,'' 49 U.S.C. 25101(d)(2)), the analysis of alternatives in the SDP will identify a single geographic route and set of service characteristics for the Corridor with which the list of required capital projects is associated. The SDP alternatives analysis is the foundation for scoping in the Step 3 NEPA process and will expedite Project Development and Implementation of selected Corridors.

Consistent with 49 U.S.C. 25101(d), the SDP will be prepared through a partnership between FRA and the grantee, although the primary responsibility for preparing the SDP will lie with the grantee. FRA's role in preparing the SDP will include review and approval of component work products and deliverables developed in support of the SDP, along with participation in and concurrence with all determinations regarding alternatives for implementing the Corridor. FRA's role in preparing the SDP will be described in detail in the statement of work governing the award of Federal funding to the grantee for Step 2 (see section (C)(3) below).

SDPs may be prepared as long-range Corridor planning documents, with the option to implement in multiple phases. For example, SDPs may reflect two or more discrete Implementation phases, with each phase associated with a specific geographic scope, set of service characteristics, and/or improvements that, if implemented, would independently benefit intercity

[3] FRA's notice establishing the Corridor ID Program did not address Corridor development initiation and the preparation of the scope, schedule, and cost estimate for an SDP. 87 FR 29432. Typically, an applicant for Federal financial assistance would develop such information independently. FRA has included these activities in the Corridor ID Program and is making them eligible for funding because they are relevant to the successful development of intercity passenger rail corridors. *See* 49 U.S.C. 25101(a)(7).

passenger rail service that would be operating on an ongoing basis. The Corridor's project inventory, required by 49 U.S.C. 25101(d)(2), will be organized by the capital projects required to implement each discrete phase. With this approach, FRA intends to avoid situations in which a Corridor may be developed only as an ''all-or-nothing'' proposition, and to minimize the possibility that near-term Implementation of a Corridor would conflict with the longer-term Implementation of the Corridor.

At a minimum, an SDP will include the following information: (1) a detailed description of the proposed intercity passenger rail service, including train frequencies, peak and average operating speeds, and trip times; (2) a Corridor project inventory that identifies the capital projects necessary to achieve the proposed service and the order in which Federal funding will be sought; (3) a schedule and associated phasing of projects and related service initiation or changes; (4) project sponsors and other entities expected to participate in carrying out the plan; (5) a description of how the Corridor would comply with Federal rail safety and security laws; (6) the locations of existing and proposed stations; (7) the needs for rolling stock and other equipment; (8) a financial plan; (9) a description of how the Corridor would contribute to the development of a multi-State regional network of intercity passenger rail; (10) an intermodal plan describing how the new or improved Corridor facilitates travel connections with other passenger transportation services; (11) a description of the anticipated environmental benefits of the Corridor; and (12) a description of the corridor's impacts on highway and aviation congestion, energy consumption, land use, and economic development in the service area. 49 U.S.C. 25101(d)(1)–(12).

In partnering on the preparation of an SDP, FRA will consult with Amtrak; State and regional transportation authorities and local officials; representatives of employee labor organizations representing railroad and other appropriate employees; host railroads;[4] and other stakeholders as determined by FRA. 49 U.S.C. 25101(e). To the extent applicable, FRA expects the preparation of an SDP to consider shared benefits to both freight and commuter rail operations and that the grantee and FRA will jointly engage with host railroads and relevant commuter rail operators early in the process to maximize shared benefits realized by the Corridor. In addition, every five years after the initial development of an SDP, if at least 40% of the work to implement the SDP has not been completed, as determined by FRA, then the grantee, in consultation with FRA, will decide whether the plan should be updated. 49 U.S.C. 25101(f). If an SDP update is needed, FRA will determine the Corridor's status in the Corridor ID Program. FRA will determine when the grantee has successfully completed the SDP.

c. Step 3—Project Development

Following the successful completion of Step 2, the Corridor, or one or more discrete phases of the Corridor, may advance to Step 3 under the Corridor ID Program. Step 3 is the Project Development work required to make projects identified in the SDP's Corridor project inventory ready for Implementation (*i.e.,* final design and construction). Project Development includes the completion of PE, NEPA, and other documentation for the Corridor's capital project(s) to advance to Implementation, consistent with FRA's *Guidance on Development and Implementation of Railroad Capital Projects.* Projects from a Corridor project inventory may advance to Step 3 as part of a specific Implementation phase of the Corridor as identified in the SDP.

FRA will advance into Project Development only those phases that: are likely to continue to Implementation following Project Development; and, if implemented, would independently benefit intercity passenger rail service that would operate on an ongoing basis. In considering whether a Corridor Implementation phase is ready to advance to Step 3, FRA will consider: (1) the capability, authority, and experience of the grantee; (2) the content of the SDP; (3) whether the grantee has secured the required non-Federal funding for work undertaken as part of Step 3 (see section (C)(3)); and (4) whether the Implementation phase is ready to enter Project Development, consistent with FRA's *Guidance on Development and Implementation of Railroad Capital Projects.* FRA will review development work undertaken prior to the selection of the Corridor to participate in the Program to determine its adequacy and appropriateness, with the aim of incorporating it into the completion of Step 3 to the greatest extent practicable. In addition, FRA may recommend that a grantee pursue funding for Step 3 activities under a program other than the Corridor ID Program.

FRA will determine when the grantee has successfully completed Step 3.

5. Funding

Under this notice, FRA will select Corridors for participation in the Corridor ID Program. For each selected Corridor, FRA will initially award the grantee $500,000 for eligible Step 1 activities. The initial award will not be subject to any cost sharing. Should the completion of eligible Step 1 activities not require the use of the full $500,000 of the initial award, any remaining funds will be carried forward to the Step 2 award for Step 2 activities.

Upon FRA's determination that the grantee has successfully completed Step 1, FRA will award the grantee funds for eligible Step 2 activities (subject to the availability of funding). FRA will determine the funding amount for Step 2 based on the cost estimate developed in Step 1. As described in section (C), there is a minimum 10 percent cost sharing requirement for Step 2 activities.

Following FRA's determination that the grantee has successfully completed Step 2 and is ready to advance to Step 3 as described in section (A)(4)(b), and subject to the availability of funding, FRA may award the grantee funds for eligible Step 3 activities. The amount and sequence of Step 3 funding will be based on the SDP, including cost estimates for completing Project Development for a phase of the Corridor. Step 3 funding may be provided through multiple awards, with each award funding Step 3 activities for a specific Implementation phase. As described in section (C), there is a minimum 20 percent cost sharing requirement for Step 3 activities. If there is not sufficient Federal funding available under the Corridor ID Program to award the maximum 80 percent share of Step 3 costs, FRA may allow a phase to advance to Step 3 if the grantee has other funding available to complete the Step 3 activities for the phase.

Once a Corridor is selected to participate in the Corridor ID Program, the grantee does not compete for Program funding for Step 2 and Step 3. Instead, funding under the Program is dictated by a grantee's successful completion of a Step, as determined by FRA. The table below illustrates this funding sequence.

[4] Regular engagement between a grantee and host railroad(s), where applicable, during Project Planning are important to the success of a Corridor.

Step	Work activities	Award amount	Grantee minimum cost share (%)
Step 1	Scope, Schedule, and Cost Estimate for SDP	$500,000	0
Step 2	SDP	TBD	10
Step 3	Project Development	TBD	20

The opportunity described in this notice is made available under Assistance Listings Number 20.326, ''Federal-State Partnership for Intercity Passenger Rail.'' FRA is authorized to use up to 5 percent of the funding made available for the Federal-State Partnership for Intercity Passenger Rail grants (Fed-State Partnership) program to carry out planning and development activities related to the Corridor ID Program. 49 U.S.C. 24911(k). Such activities include: (1) providing funding to public entities for the development of SDPs selected under the Corridor ID Program; (2) facilitating and providing guidance for intercity passenger rail systems planning; and (3) providing funding for the development and refinement of intercity passenger rail systems planning analytical tools and models. 49 U.S.C. 24911(k). In addition, such planning and development activities include a Corridor's Project Development activities, such as PE and NEPA, that are relevant to the successful development of intercity passenger rail corridors and to the success of the Program. 49 U.S.C. 25101(a)(7) (FRA may include in the Program ''such other features as the [FRA] considers relevant to the successful development of intercity passenger rail corridors.''); *see also* 49 U.S.C. 24911(k) (development activities related to the Corridor ID Program are eligible for funding).

6. Project Pipeline

Within 1 year of establishing the Program, and by February 1st of each year thereafter, FRA will submit a ''project pipeline'' report to Congress. 49 U.S.C. 25101(g). As FRA established the Program on May 13, 2022, FRA will submit the first project pipeline report to Congress on or before May 13, 2023. 87 FR 29432.

The project pipeline report: (1) identifies intercity passenger rail corridors selected for development under the Program; (2) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels, as applicable, consistent with the Corridor project inventory; (3) specifies the order in which the Secretary would provide Federal financial assistance to projects that have identified sponsors, including a method and plan for apportioning funds to project sponsors for a five-year period; (4) takes into consideration the appropriate sequence and phasing of projects described in the Corridor project inventory; (5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years; (6) is prioritized based on the level of readiness of the Corridor;[5] and (7) reflects consultation with Amtrak. 49 U.S.C. 25101(g)(1)–(7).

The annual project pipeline report includes a Program-wide, prioritized list of projects that have completed Project Development and are ready for Implementation. The project pipeline report will also include a list of projects that are in Project Development, and thus are in the process of being prepared for future inclusion in the project pipeline.

7. Program Guidance

FRA intends to issue Corridor ID Program guidance as the Program advances, including guidance for Corridors not selected to participate in the Program. 49 U.S.C. 25101(a)(6). Following the selection of Corridors under this notice, FRA will also provide an opportunity for all applicants with Corridors not selected to meet with FRA to receive feedback on their Corridor proposals.

8. DOT Strategic Goals

FRA will implement the Corridor ID Program, as appropriate and consistent with law, in alignment with the priorities in Executive Order 14052, *Implementation of the Infrastructure Investments and Jobs Act* (86 FR 64355), which are to invest efficiently and equitably, promote the competitiveness of the U.S. economy, improve job opportunities by focusing on high labor standards, strengthen infrastructure resilience to all hazards including climate change, and to effectively coordinate with State, local, Tribal, and territorial government partners.

Through the Corridor ID Program, FRA seeks to identify Corridors that reduce greenhouse gas emissions and can be designed with specific elements to address climate change impacts. Specifically, FRA is looking to identify Corridors that align with the President's greenhouse gas reduction goals, promote energy efficiency, support fiscally responsible land use and efficient transportation design, increase climate resilience, support domestic manufacturing, and reduce pollution.

FRA also seeks to identify Corridors that address environmental justice, particularly for communities that disproportionally experience climate change-related consequences. Environmental justice, as defined by the Environmental Protection Agency, is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As part of the implementation of Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619), FRA seeks to identify Corridors that, to the extent possible, target at least 40 percent of resources and benefits towards low-income communities, disadvantaged communities, communities underserved by affordable transportation, or overburdened communities.[6]

FRA also seeks to identify Corridors that proactively address racial equity and barriers to opportunity, including automobile dependence, as a form of

[5] In connection with the project pipeline report, FRA's criteria for determining the level of readiness for Federal financial assistance of a Corridor include: (1) identification of a service operator which may include Amtrak or private rail carriers; (2) identification of a service sponsor or sponsors; (3) identification of capital project sponsors; (4) engagement with the applicable host railroads; and (5) such other criteria as determined appropriate by FRA. 49 U.S.C. 25101(a)(3).

[6] Overburdened Community: Minority, low-income, tribal, or indigenous populations or geographic locations in the United States that potentially experience disproportionate environmental harms and risks. This disproportionality can be as a result of greater vulnerability to environmental hazards, lack of opportunity for public participation, or other factors. Increased vulnerability may be attributable to an accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations or places. The term describes situations where multiple factors, including both environmental and socio-economic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities.

barrier, or redress prior inequities and barriers to opportunity. Section (E)(1)(c) describes racial equity considerations that an applicant can undertake, and FRA will consider during the review of applications.

In addition to prioritizing projects that address climate change, proactively address racial equity, and reduce barriers to opportunity, to the extent possible in Project Planning and Project Development, FRA intends to use the Corridor ID Program to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs, especially registered apprenticeships and Local Hire agreements. Projects that incorporate such considerations are expected to support a strong economy and labor market.

FRA also intends to use the Corridor ID Program to support Corridors that encourage transit-oriented development to the extent it is applicable, for the purpose of enhancing the economic vitality and competitiveness of a neighborhood and region and providing new spaces and opportunities for commercial activity and housing.

Section (E) of this notice, which outlines the Corridor ID Program selection criteria, describes the process for selecting Corridors that further these goals. Section (F)(3) describes progress and performance reporting requirements for selected Corridors, including the relationship between that reporting and the Corridor ID Program's selection criteria.

B. Federal Award Information

1. Available Award Amount

The funding made available in this notice comes from FRA's authority to use up to 5 percent of the funding made available for the Fed-State Partnership program to carry out planning and development activities related to the Corridor ID Program. 49 U.S.C. 24911(k). The BIL provided significant funding for the Fed-State Partnership program of $7.2 billion for Fiscal Year 2022.[7] Public Law 117–58, div. J, title VIII. FRA may also elect to award additional available funds to applications received under this notice (any selection and award under this notice is subject to the availability of appropriated funds).

Importantly, once a Corridor is selected to participate in the Program and receive Step 1 funding, additional funding for Step 2 and Step 3 activities is not competitive and FRA will award such funding upon the grantee's successful completion of the preceding step and demonstration of readiness to proceed, as determined by FRA, consistent with this notice and the availability of funding under 49 U.S.C. 24911(k). Any selection and award under this notice is subject to the availability of appropriated funds.

2. Award Size

FRA will award the applicant of a selected Corridor $500,000 for eligible Step 1 activities. As described, subsequent individual awards for Step 2 and Step 3 activities have no predetermined minimum or maximum dollar thresholds. FRA anticipates making multiple Corridor selections under this notice. FRA may not award grants to all eligible applications even if they meet or exceed the stated evaluation criteria (see section (E)).

3. Award Type

FRA will make awards for Corridors selected under this notice through cooperative agreements. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. See section (A)(4). The use of cooperative agreements is consistent with the statutory direction that selected Corridors be developed through a partnership between the applicant and FRA. 49 U.S.C. 25101(d). The term ''grant'' is used throughout this document and is intended to reference funding awarded through a cooperative agreement. The funding provided under this notice will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, grantees are expected to expend matching funds at the percentage required in the grant concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/Details/L19057.* This template is subject to revision.

4. Concurrent Applications

DOT and FRA may be concurrently soliciting applications for transportation infrastructure projects for several financial assistance programs. Applicants may submit applications requesting funding for a particular project to one or more of these programs. In the application for funding under this notice, applicants must indicate the other program(s) to which they submitted an application for funding the Corridor or certain Corridor components, as well as highlight new or revised information in the application responsive to this notice that differs from the previously submitted application(s).

C. Eligibility Information

This section of the notice explains applicant eligibility, Corridor eligibility, eligible activities, and cost sharing or matching requirements. Applications that do not meet the requirements in this section are ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in section (D) of this notice.

1. Eligible Applicants

The following entities are eligible to submit applications to participate in the Corridor ID Program under this notice:

a. Amtrak.
b. States.
c. Groups of States.
d. Entities implementing interstate compacts.
e. Regional passenger rail authorities.
f. Regional planning organizations.
g. Political subdivisions of a State.
h. Federally recognized Indian Tribes.

The applicant serves as the primary point of contact for the application, and if selected, as the recipient of the Corridor ID Program grant award. An application may identify entities that are not eligible applicants as Corridor partners.

2. Cost Sharing or Matching

For Step 1 activities, there is no minimum cost share or match requirement for Corridors funded under this notice. For Step 2 activities, the Federal share of total costs for a Corridor will not exceed 90 percent.[8] For Stage 3 activities, the Federal share

[7] The Fed-State Partnership program is authorized for additional annual appropriations.

[8] The notice establishing the Corridor ID Program stated that not less than a 20 percent non-Federal share of eligible costs would be expected for the Corridor ID Program. 87 FR 29432. While a 20 percent match is consistent with the requirements of the Fed-State Partnership program, it is not required for the Corridor ID Program. See 49 U.S.C. 24911(f)(2) (establishing a Federal share of 80 percent for ''a project under this section''—''this section'' is the Fed-State Partnership program (which does not encompass the Corridor ID Program). After further consideration, outreach, and development of the Program, FRA believes a graduated non-Federal match requirement better advances the Program by further encouraging applicants from across the country to participate. Therefore, as reflected in this notice, FRA will fund 100 percent of the eligible Step 1 activities, up to 90 percent of the eligible Step 2 activities, and up to 80 percent of the eligible Step 3 activities.

of total costs for a Corridor will not exceed 80 percent.

The non-Federal share may be composed of public sector (*e.g.,* state or local) and/or private sector funding. FRA will not consider any non-Federal funds already expended (or otherwise encumbered) toward the matching requirement,[9] unless compliant with 2 CFR part 200. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306.

Amtrak or another railroad carrier may use ticket and other non-Federal revenues generated from its operations and other sources as matching funds.

Before applying, applicants should carefully review the principles for cost sharing or matching in 2 CFR 200.306. Cost sharing or matching may be used only for eligible purposes under the Program and are subject to the requirements of the Federal award.

3. Eligible Corridors

An applicant is not limited in the number of Corridors for which they seek participation in the Corridor ID Program. The Corridors that are eligible under the Corridor ID Program are defined in section (A)(2). *See also* 49 U.S.C. 25101(h). That definition is limited exclusively to intercity passenger rail routes. As such, commuter rail services are not ''Corridors'' under this definition and are not eligible to participate in the Program. *See* 49 U.S.C. 24102(4) (''[I]ntercity rail passenger transportation'' means rail passenger transportation, except commuter rail passenger transportation.'').[10] Likewise, an eligible Corridor must encompass a geographic scope sufficient to constitute intercity passenger rail transportation; a proposal that only consists of a portion of a route, which if advanced independently would not constitute intercity passenger transportation, is not eligible.

While an eligible Corridor may include geographic markets and/or segments that are outside of the United States (*e.g.,* where a major travel market outside of the United States is located in proximity to the international border, or where a Corridor segment passing outside of the United States connects markets lying within the United States), the Corridor ID Program will focus on the components of a Corridor that are located in the United States.

In addition, Corridor eligibility is limited to proposals that use technologies that are ready for deployment and Implementation at the time of application. Proposals that include the use of unproven technologies that are under development at the time of application are not eligible.

4. Eligible Activities

For Corridors selected to participate in the Corridor ID Program, the following activities are eligible for funding under 49 U.S.C. 24911(k) and this notice:

a. Step 1: The initiation of an applicant's Corridor development efforts under the Program (including securing the professional and technical staff or contractor support necessary to prepare an SDP) and the development of a scope, schedule, and cost estimate for preparing an SDP for a Corridor.

b. Step 2: The preparation of an SDP (or an update to an existing SDP) consistent with 49 U.S.C. 25101(d) and this notice to complete Project Planning work consistent with FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*

c. Step 3: The preparation of all additional Project Development work required to ready the Corridor (or the initial phase or phases of the Corridor) for Implementation. Such work includes the completion of PE and NEPA activities, and other documentation for the Corridor's capital project(s) to advance to Implementation, consistent with FRA's *Guidance on Development and Implementation of Railroad Capital Projects.*

D. Application and Submission Information

1. Address To Request Application Package

Application materials may be accessed at *https://www.Grants.gov.* Applicants must submit all application materials in their entirety through *https://www.grants.gov* no later than 5 p.m. ET, on March 20, 2023. Applicants are strongly encouraged to apply early to ensure that all materials are received before the application deadline. FRA reserves the right to modify this deadline. General information for submitting applications through *Grants.gov* can be found at: *https://www.fra.dot.gov/Page/P0270.* FRA is committed to ensuring that information is available in appropriate alternative formats to meet the requirements of persons who have a disability. If you require an alternative version of files provided, please contact Laura Mahoney, Office of the Chief Financial Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; email: *laura.mahoney@dot.gov;* phone: 202–578–9337.

2. Content and Form of Application Submission

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for selection and funding under the Corridor ID Program. Applications that are not submitted on time or do not contain all required documentation will not be considered. To support the application, applicants may provide other relevant and available optional supporting documentation that may have been developed by the applicant.

Required documents for an application package are described in subsections (a) and (b) below.

a. Corridor Narrative

This section describes the minimum content required in the Corridor Narrative for applications under the Corridor ID Program. The Corridor Narrative must follow the basic outline below to address the Program requirements and to assist evaluators in locating relevant information.

I. Cover Page	See D.2.a.i.
II. Corridor Summary	See D.2.a.ii.
III. Corridor Funding	See D.2.a.iii.
IV. Applicant Eligibility	See D.2.a.iv.
V. Detailed Corridor Description	See D.2.a.v.
VI. Corridor Location	See D.2.a.vi.
VII. Evaluation and Selection Criteria	See D.2.a.vii.

[9] See section (F)(2)(a) for supporting information required to demonstrate eligibility of Federal funds for use as match.

[10] With that said, a Corridor may jointly benefit commuter rail services and intercity passenger rail services and be eligible to participate in the Program, assuming it meets the Corridor criteria as described in section (A)(2).

VIII. DOT Strategic Goals	See D.2.a.viii.

The above content must be provided in a narrative statement submitted by the applicant. The Corridor Narrative may not exceed 15 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider Corridor Narratives beyond the 15-page limitation. If possible, applicants should submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the relevant portion of the supporting document with the page numbers of the cited information in the Corridor Narrative. The Corridor Narrative must adhere to the following outline.

i. *Cover Page:* Include a cover page that lists the following elements in either a table or formatted list:

Corridor Title	
Applicant	
Was a Federal Grant Application Previously Submitted for this Corridor?	Yes/No If yes, please specify the program, funding year and project title of the previous application.
Other sources of Funding for the Corridor?	Yes/No If yes, please specify the source of funding and the estimated amount.
City(-ies), State(s) Where the Corridor is Located	
Congressional District(s) Where the Corridor is Located	
Is the Corridor currently programmed or identified in: State rail plan, or regional or interregional intercity passenger rail systems planning study?	Yes/No If yes, please specify in which plans the Corridor is currently programmed/identified and how the plan may be accessed.
Is the applicant working with other entities in support of the Corridor?	Yes/No If yes, please specify the entities.

ii. *Corridor Summary:* Provide a brief 4–6 sentence summary of the Corridor. Include challenges the Corridor aims to address and summarize the intended outcomes and anticipated benefits that will result from the Corridor.

iii. *Corridor Funding:* If applicable, indicate in table format the amount of non-Program funding (both Federal and non-Federal) available at the time of application to support eligible activities under the Program.[11] Identify the source(s) of non-Program funds, including funding commitment letters outlining funding agreements, as attachments or in an appendix. If non-Program Federal funding is available to support the development of the Corridor, demonstrate the applicant's determination of eligibility for such use, and the legal basis for that determination. Also, note if any available non-Program funding must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. Finally, specify whether Federal funding for the Corridor has previously been sought, and identify the Federal program and fiscal year of the funding request(s), as well as highlight new or revised information in the Corridor ID Program application that differs from the application(s) to other financial assistance programs.

iv. *Applicant Eligibility:* Explain how the applicant meets the applicant eligibility criteria outlined in section (C) of this notice including where appropriate citations to applicable enabling legislation for the applicant.

v. *Detailed Corridor Description:* Include a detailed Corridor description that expands upon the brief Corridor summary. This detailed description should address, at a minimum: (1) information regarding the basic characteristics of the Corridor, including the key geographic travel markets that must be served for the Corridor to fulfill its intended objectives, high-level initial estimates, preferably expressed as ranges or options, of certain Corridor characteristics (such as the potential service frequencies and travel times between the Corridor-defining markets, the potential geographic routes for the Corridor (particularly if the subject Corridor is intended to operate over existing rail lines), and, for Corridors with improvements to existing intercity passenger rail services, a detailed description of the improvements proposed to be developed under the Program); (2) information necessary to assess the readiness of the Corridor to enter into planning and development under the Program, including demonstrating the existing level of commitment of the applicant; (3) a description of any eligible activities (see section (C)) that have been completed or are currently ongoing for the Corridor; (4) the intended operator of the Corridor, if known;[12] (5) the legal, technical, and financial capability and capacity of the applicant and relevant partners to engage in the planning and development of the Corridor, as well as their ability to support and fund the Implementation and operation of the Corridor;[13] (6) information on the challenges the Corridor aims to address; (7) the expected users and beneficiaries of the Corridor, including all railroad operators; (8) the applicant's interest in potential scaling of the Corridor

[11] Although there is not a cost sharing requirement for the selection of a Corridor to participate in the Program, as discussed, there is a cost sharing requirement in connection with Step 2 and Step 3 activities under the Program.

[12] For example, Amtrak's role as operator is relevant to the Corridor planning and development process (including the use and improvement of facilities of host railroads, ongoing operating and maintenance costs, and requirements regarding the provision of operating financial support by service sponsors). In the May 13, 2022, notice that formally established the Program, FRA indicated that applications must state whether the Corridor was intended to be operated by Amtrak. 87 FR 29436. However, FRA has now determined that this question may be addressed in Step 1 under the Program. With that said, if the applicant has made a determination at the time of application, it should include that information in the application.

[13] The ability to secure such future funding may be demonstrated by the applicant's past or current funding of intercity passenger rail capital improvements and operations.

proposal and/or phasing of its Implementation; (9) for applicants submitting applications for multiple Corridors, a listing of all applications and the applicant's prioritization of the Corridors; and (10) any other information the applicant deems necessary to justify the Corridor. FRA may also consider relevant supporting documentation, such as letters of support from partnering organizations, none of which will count against the Corridor Narrative 15-page limit.

vi. *Corridor Location:* Include geospatial data for the Corridor, as well as a map of the Corridor's location. For applications relating to Corridors for which the route and geographic alignment is not known, the geospatial data and map may be limited in detail to depicting the connections between the key geographic travel markets that must be served for the Corridor to fulfill its intended objectives. Geospatial data can be expressed in terms of decimal degrees for latitude and longitude of at least five decimal places of precision or start and end mileposts designating railroad code and subdivision name. On the map, include the Congressional districts which the Corridor may traverse.

vii. *Evaluation and Selection Criteria:* Include a thorough discussion of how the Corridor meets the evaluation and selection criteria, as outlined in section (E) of this notice. FRA recognizes that an applicant may not be able to provide detailed information in connection with each of the statutory evaluation criteria (section (E)(1)(b)(i)). Applicants are encouraged to provide as much detail related to those criterion as is available, and applications will not be penalized in the evaluation process where detailed information is not available.

viii. DOT Strategic Goals: To the extent feasible, applicants should describe, as applicable, efforts to consider climate change and sustainability impacts, as well as efforts to improve equity and reduce barriers to opportunity in Corridor planning. In addition, applicants should describe how Corridor planning and development may advance good-paying, quality jobs and workforce programs and hiring policies that promote workforce inclusion. Additional information about strong labor standards that grant award recipients will be expected to meet are described below in Administrative and National Policy Requirements (section (F)(2)).

b. Additional Application Elements

Applicants must submit:

i. SF 424—Application for Federal Assistance.

ii. SF 424A—Budget Information for Non-Construction.

iii. SF 424B—Assurances for Non-Construction.

iv. FRA F 30—Certifications Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying, located at *https://railroads.dot.gov/elibrary/fra-f-30-certifications-regarding-debarment-suspension-and-other-responsibility-matters.*

v. FRA F 251—Applicant Financial Capability Questionnaire, located at *https://railroads.dot.gov/elibrary/fra-f-251.*

vi. SF LLL—Disclosure of Lobbying Activities, if applicable.

Standard OMB Forms needed for the electronic application process are at *www.Grants.gov.*

3. Unique Entity Identifier and System for Award Management (SAM)

To apply for funding through *Grants.gov,* applicants must be properly registered in SAM before submitting an application; provide a valid unique entity identifier in its application; and continue to maintain an active SAM registration as described in detail below. Complete instructions on how to register and submit an application can be found at *www.Grants.gov.* Registering with *Grants.gov* is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension.

FRA may not make a grant award to an applicant until the applicant has complied with all applicable SAM requirements. If an applicant has not fully complied with these requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. Late applications that are the result of a failure to register or comply with *Grants.gov* applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through *Grants.gov,* applicants must:

a. Register With the SAM at *www.SAM.gov.*

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov.* The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award, including information on a recipient's immediate and highest-level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable. Information about SAM registration procedures is available at *www.sam.gov.*

b. Obtain a Unique Entity Identifier.

On April 4, 2022, the federal government stopped using DUNS numbers. The DUNS Number was replaced by a new, non-proprietary identifier that is provided by the System for Award Management (*SAM.gov*). This new identifier is called the Unique Entity Identifier (UEI), or the Entity ID. To find or request a Unique Entity Identifier, please visit *www.sam.gov.*

c. Create a *Grants.gov* username and password.

Applicants must complete an Authorized Organization Representative (AOR) profile on *www.Grants.gov* and create a username and password. Applicants must use the organization's UEI to complete this step. Additional information about the registration process is available at: *https://www.grants.gov/web/grants/applicants/organization-registration.html.*

d. Acquire Authorization for your AOR from the E-Business Point of Contact (E-Biz POC).

The E-Biz POC at the applicant's organization must respond to the registration email from *Grants.gov* and login at *www.Grants.gov* to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in this NOFO.

If an applicant has trouble at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html.*

4. Submission Dates and Times

Applicants must submit complete applications to *www.Grants.gov* no later than 5 p.m. ET, March 20, 2023. Applicants will receive a system-generated acknowledgement of receipt. FRA reviews *www.Grants.gov* information on dates/times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Delayed registration is not an acceptable reason for late submission. To apply for funding under this announcement, all applicants are expected to be registered as an organization with *Grants.gov*. Applicants are strongly encouraged to apply early to ensure all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the *Grants.gov* registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all the instructions in this notice; and (4) technical issues experienced with the applicant's computer or information technology environment.

5. Intergovernmental Review

Intergovernmental Review is required for this Program. Applicants must contact their State Single Point of Contact to comply with their state's process under Executive Order 12372.

6. Funding Restrictions

Consistent with 2 CFR 200.458, as applicable, FRA will only approve pre-award costs for Step 1 if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under 2 CFR 200.458, grantees must seek written approval from FRA for pre-award Step 1 activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without FRA's written approval may be ineligible for reimbursement or matching contribution. Cost sharing or matching may be used only for authorized Federal award purposes.

7. Other Submission Requirements

For any supporting application materials that an applicant cannot submit via *Grants.gov,* such as oversized engineering drawings, an applicant may submit an original and two (2) copies to Peter Schwartz, Acting Director, Office of Railroad Planning and Engineering, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, explaining to FRA how to access files on a referenced website may also be sufficient.

Note: Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

E. Application Review Information

1. Criteria

a. Eligibility, Completeness, and Applicant Risk Review

FRA will first screen each application for applicant and Corridor eligibility (eligibility requirements are outlined in section (C) of this notice), and completeness (application documentation and submission requirements are outlined in section (D) of this notice).

FRA will then consider applicant risk, including the applicant's past performance in developing and delivering similar projects.

b. Evaluation Criteria

FRA will evaluate all eligible and complete applications using the evaluation criteria outlined in this section.

i. Corridor Benefits:

FRA will evaluate the Corridor benefits of the proposed Corridor, including: [14]

A. The projected ridership, revenues, capital investment, and operating funding requirements.

B. The anticipated environmental, congestion mitigation, and other public benefits.

C. The projected trip times and their competitiveness with other transportation modes.

D. The anticipated positive economic and employment impacts.

E. The benefits to rural communities.

F. Whether the Corridor serves historically unserved or underserved and low-income communities or areas of persistent poverty.

G. Whether the Corridor would benefit or improve connectivity with existing or planned transportation services of other modes.

H. Whether the Corridor connects at least 2 of the 100 most populated metropolitan areas.

I. Whether the Corridor would enhance the regional equity and geographic diversity of intercity passenger rail service.

J. Whether the Corridor is or would be integrated into the national rail passenger transportation system and would create benefits for other passenger rail routes and services.

ii. Technical Merit:

FRA will also evaluate application information for the following:

A. Whether the applicant is ready to commence activities under the Program and to complete, at a minimum, Step 1 and Step 2.

B. Whether the technical qualifications and experience of key personnel the applicant proposes to lead and perform the technical efforts, including the qualifications of the primary and supporting organizations, demonstrates the ability to fully, timely, and successfully execute Step 1 and Step 2 activities for the Corridor.

C. The applicant's commitment to the Implementation and operation of the Corridor (*e.g.,* documented support for the Corridor from relevant legislative and executive government bodies, an established history of support for intercity passenger rail operations and capital investments, etc.).

D. Whether the route was identified as part of a regional or interregional planning study.

[14] As discussed, FRA recognizes that detailed information capable of demonstrating that a Corridor meets certain of these evaluation criteria (*e.g.,* sections (A)–(E)), may not have been developed for the Corridor at the time of application (as much of this information would be developed as part of the preparation of an SDP). Applications will not be penalized in the evaluation process if detailed information related to these criteria is not available at the time of application.

E. The committed or anticipated non-Federal funding for operating and capital costs.[15]

F. Whether the Corridor is included in a State's approved State rail plan.

G. Whether a passenger rail operator has expressed support for the Corridor.

c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined above, FRA will apply the following selection criteria:

i. DOT Strategic Goals

A. Safety.

FRA will assess the Corridor's ability to foster a safe transportation system for the movement of goods and people, consistent with the Department's strategic goal to reduce transportation-related fatalities and serious injuries across the transportation system. To the extent applicable, such considerations will include, but are not limited to, the extent to which the Corridor improves safety at highway-rail grade crossings, reduces incidences of rail-related trespassing, upgrades infrastructure to achieve a higher level of safety, and uses an appropriately trained workforce.

B. Economic Strength and Global Competitiveness.

1. Infrastructure Investment and Job Creation.

In support of Executive Order 14025, *Worker Organizing and Empowerment* (86 FR 22829), and Executive Order 14052, *Implementation of the Infrastructure Investment and Jobs Act* (86 FR 64335), FRA will assess to the extent applicable the Corridor's ability to contribute to economic progress stemming from infrastructure investment and associated job creation in the industry. Such considerations will include, but are not limited to, the extent to which the Corridor results in long-term job creation by supporting good-paying construction and manufacturing jobs directly related to the Corridor with free and fair choice to join a union, such as through the use of project labor agreements or union neutrality agreements, pre-apprenticeships tied to Registered Apprenticeships, Registered Apprenticeships, community-benefit agreements, and local hiring provisions, or other targeted preferential hiring requirements, or other similar standards or protections; invests in vital infrastructure assets and provides opportunities for families to achieve economic security through rail industry employment.

2. Support Resilient Supply Chains & Economic Opportunity.

To the extent applicable, Corridors will also be assessed by their ability to promote the efficiency and resilience of supply chains by increasing freight rail capacity, reducing congestion, alleviating bottlenecks, and increasing multimodal connections. In addition, applicants are encouraged to consider the ability of the Corridor to provide greater access to economic opportunity to residents through greater connections to jobs, commerce, and educational opportunities. Applicants are also encouraged to consider the ability of the Corridor to encourage transit-oriented development to the extent it is applicable.

C. Equity.

In support of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009), and Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619), to the extent applicable FRA will assess the Corridor's ability to address equity and barriers to opportunity, to the extent possible within the Program and consistent with law. Such considerations will include, but are not limited to, the applicant's plan for using small businesses to complete work activities under the Program, the extent to which the Corridor improves or expands transportation options for underserved communities, mitigates the safety risks and detrimental quality of life effects that rail lines can have on communities especially those communities that might have been historically disconnected due to the railroad infrastructure, and expands workforce development and career pathway opportunities to foster a more diverse rail industry. This will also include community engagement efforts already taken or planned, the extent to which engagement efforts are designed to meaningfully reach impacted communities, whether engagement is accessible for persons with disabilities or limited English proficient persons within the impacted communities, and how community feedback is taken into account in decision-making.

D. Climate and Sustainability.

In support of E.O. 14008, ''Tackling the Climate Crisis at Home and Abroad,'' to the extent applicable, to the extent applicable FRA will assess the Corridor's ability to reduce the harmful effects of climate change and anticipate necessary improvements to prepare for extreme weather events. Such considerations will include, but are not limited to, the extent to which the Corridor reduces emissions, promotes energy efficiency, increases resiliency, and recycles or redevelops existing infrastructure.

E. Transformation.

FRA will assess the Corridor's ability to expand and improve the nation's rail network, which needs to balance new infrastructure for increased capacity with proper maintenance of aging assets. As applicable, such considerations will include, but are not limited to, the extent to which the Corridor adds capacity to congested corridors, improves supply chain resilience, and ensures assets will be improved to a state of good repair.

ii. Previous Federal High-Speed Rail Corridor Designations

Beginning with the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, and continuing through 2011, FRA ''designated'' a total of 11 high-speed rail corridors.[16] FRA will take these designations into consideration when evaluating applications to participate in the Program.

iii. Other Factors

While FRA intends the Corridor ID Program to support the development of many, varied intercity passenger rail

[15] As noted, FRA recognizes that detailed information may not have been developed for the Corridor at the time of application. Applications will not be penalized in the evaluation process if detailed information related to this criteria is not available at the time of application.

[16] These designated rail corridors are as follows: (1) a *Midwest corridor* (linking Chicago, IL with Detroit, MI, St. Louis, MO, and Milwaukee, WI; an extension from Milwaukee, WI to Minneapolis/St. Paul, MN; an extension to Indianapolis, IN and Cincinnati, OH; an extension from Chicago, IL to Toledo, OH and Cleveland, OH; an extension from Indianapolis, IN to Louisville, KY; an extension between Cleveland, OH, Columbus, OH, Dayton, OH, and Cincinnati, OH; and an extension from St. Louis, MO to Kansas City, MO); (2) a *Florida corridor* (linking Miami with Orlando and Tampa); (3) a *California corridor* (linking San Diego, Los Angeles, the San Francisco Bay, and Sacramento; and an extension to Las Vegas, NV); (4) a *Southeast corridor* (connecting Charlotte, NC, Richmond, VA, and Washington DC; an extension from Charlotte, NC to Greenville, SC to Atlanta, GA to Macon, GA; an extension from Raleigh, SC to Columbia, SC and to Savannah, GA and Jacksonville, FL; and an extension from Macon, GA to Jesup, GA); (5) a *Pacific Northwest corridor* (linking Eugene, OR and Portland, OR with Seattle, WA and Vancouver, Canada); (6) a *Gulf Coast corridor* (including an extension from Birmingham, AL to Atlanta, GA); (7) a *Keystone corridor* (from Philadelphia to Harrisburg; and an extension from Harrisburg to Pittsburgh); (8) an *Empire State corridor* (from New York City to Albany and Buffalo); (9) a *Northern New England corridor* (linking Boston, MA with Portland/Auburn, ME and Montreal, Canada; and an extension from Boston, MA to Springfield, MA and Albany, NY and from Springfield, MA to New Haven, CT); (10) a *South Central corridor* (linking Dallas/Ft. Worth, TX with Austin, TX and San Antonio, TX, Oklahoma City, OK and Tulsa, OK, and Texarkana, TX/AR, and Little Rock, AR); and (11) a *Northeast corridor* (between Washington, DC, Philadelphia, PA, New York, NY, and Boston, MA).

corridors, FRA may limit its selection of Corridors, particularly at the beginning of the Program, based on several considerations. Such considerations may include the availability of Federal funding to implement Corridors developed under the Corridor ID Program, the capacity of the intercity passenger rail industry as a whole to support the Corridor development efforts, and a strategy to grow the Program at a sustainable rate.

FRA's selection of Corridors may also be influenced by the overall level of risk, complexity, and level of effort associated with the development of a Corridor. For example, FRA may limit the number of selected Corridors that involve entirely new intercity passenger rail services, due to the significant risks, complexity, and level of effort involved in developing and implementing such proposals. Conversely, FRA may be more expansive in selecting Corridors that involve incremental improvements to existing services, as the development of such proposals would likely involve relatively lower risk, complexity, and level of effort.

2. Review and Selection Process

FRA will conduct a five-part application review and selection process, as follows:

a. Screen applications for applicant eligibility, corridor eligibility, completeness, and applicant risk including past performance in developing and delivering similar projects;

b. Evaluate screened applications (completed by technical panels applying the evaluation criteria);

c. If applicable, conduct discussions with applicants of screened applications, including to address potential Corridor scaling; the prioritization of Corridors for applicants with multiple applications; and a Corridor's geographic overlap with another Corridor;

d. Review and apply selection criteria and recommend initial selection of Corridors for the FRA Administrator's review (completed by a non-career Senior Review Team, which includes senior leadership from the Office of the Secretary and FRA); and

e. Select recommended corridors for the Secretary's review and approval (completed by the FRA Administrator).

3. Reporting Matters Related to Integrity and Performance

Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold of $250,000 (see 2 CFR 200.88 Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). See 41 U.S.C. 2313.

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FRA will consider any comments by the applicant, in addition to the other information, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.205.

F. Federal Award Administration Information

1. Federal Award Notice

FRA will announce applications selected for participation in the Corridor ID Program in a press release and on FRA's website after the application review period. This announcement is FRA's notification to successful and unsuccessful applicants alike. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed Step 1 activities. FRA requires satisfaction of applicable requirements by the applicant and a formal agreement signed by both the grantee and the FRA before obligating the grant. See an example of standard terms and conditions for FRA grant awards at *https://railroads.fra.dot.gov/elibrary/award-administration-and-grant-conditions.* This template is subject to revision.

2. Administrative and National Policy Requirements

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, grantees must comply with all applicable requirements of Federal law, including, without limitation: the Constitution of the United States; the relevant authorization and appropriations, the conditions of performance, nondiscrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of DOT; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget (OMB). In complying with these requirements, grantees, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If FRA determines that a grant recipient has failed to comply with applicable Federal requirements, FRA may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds. See an example of standard terms and conditions for FRA grant awards at *https://railroads.fra.dot.gov/elibrary/award-administration-and-grant-conditions.* This template is subject to revision.

Examples of administrative and national policy requirements include: 2 CFR part 200; procurement standards at 2 CFR part 200 subpart D—Procurement Standards; 2 CFR 1207.317 and 2 CFR 200.401; compliance with Federal civil rights laws and regulations; disadvantaged business enterprises requirements; debarment and suspension requirements; drug-free workplace requirements; FRA's and OMB's Assurances and Certifications; Americans with Disabilities Act; safety requirements; NEPA; environmental justice requirements; and 2 CFR 200.315, governing rights to intangible property. Unless otherwise stated in statutory or legislative authority, or appropriations language, all financial assistance awards follow the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards at 2 CFR part 200 and 2 CFR part 1201.

Selected Corridors must sufficiently consider climate change and sustainability in their planning and development activities, as determined by FRA, consistent with Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619). Activities that address climate change include, but are not limited to, demonstrating: the Corridor will result in significant greenhouse gas emissions reductions; and the Corridor supports emissions reductions goals in a Local/Regional/State plan. Activities that address EJ include but are not limited to: basing Corridor and project design on the results of a proven EJ screening tool (developed by another Federal agency such as the EPA,[17] a State agency, etc.); conducting enhanced, targeted outreach to EJ communities; considering EJ in alternatives analysis

[17] For more information regarding the EPA EJ screening tool see *https://www.epa.gov/ejscreen.*

and final project design; and supporting a modal shift in passenger movement to reduce emissions or reduce induced travel demand.

Selected Corridors must sufficiently consider equity and barriers to opportunity in their planning and development activities, as determined by FRA, consistent with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009). Activities that address equity and barriers to opportunity include, but are not limited to: completing an equity impact analysis for the Corridor; adopting an equity and inclusion program/plan; conducting meaningful public engagement to ensure underserved communities are provided an opportunity to be involved in the planning process and is conducted in a manner that is consistent with title VI requirements; including investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities; hiring from local communities; improving access to or providing economic growth opportunities for underserved, overburdened, or rural communities; or addressing historic or current inequitable air pollution or other environmental burdens and impacts.

Each applicant selected to participate in the Corridor ID Program must ensure that, to the extent applicable, the service development planning activities and the Project Development activities under the Program sufficiently consider job quality and labor rights, as determined by the Department of Labor, consistent with Executive Order 14025, *Worker Organizing and Empowerment* (86 FR 22829), and Executive Order 14052, *Implementation of the Infrastructure Investment and Jobs Act* (86 FR 64335). Specifically, the service development planning activities and the Project Development activities must support: (a) strong labor standards and the free and fair choice to join a union,[18] including project labor agreements, local hire agreements,[19] distribution of workplace rights notices, and the use of an appropriately trained workforce; (b) support of high-quality workforce development programs, including registered apprenticeship, labor-management training programs, and supportive services to help train, place, and retain people in good-paying jobs and apprenticeships; and (c) comprehensive planning and policies to promote hiring and inclusion for all groups of workers, including through the use of local and economic hiring preferences, linkage agreements with workforce programs that serve these underrepresented groups, and proactive plans to prevent harassment. In addition, to the extent applicable, the grant conditions and other requirements in 49 U.S.C. 22905, including protective arrangements that are equivalent to the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by action taken in connection with a project to be financed in whole or in part by grants subject to 49 U.S.C. 22905, will apply to Corridor ID Program projects at Implementation.

The Office of Federal Contract Compliance Programs (OFCCP) is charged with protecting America's workers by enforcing equal employment opportunity and affirmative action obligations of employers that do business with the Federal Government. OFCCP enforces Executive Order 11246, section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. Together these legal authorities make it unlawful for federal contractors and subcontractors to discriminate in employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran.

Consistent with E.O. 11246, *Equal Employment Opportunity* (30 FR 12319, and as amended), all Federally assisted contractors are required to make good faith efforts to meet the goals of 6.9% of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7% workers with disabilities.

The OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. Through the program, OFCCP offers contractors and subcontractors extensive compliance assistance, conducts compliance evaluations, and helps to build partnerships between the project sponsor, prime contractor, subcontractors, and relevant stakeholders. To the extent applicable, OFCCP will identify projects that receive an award under this notice and are required to participate in OFCCP's Mega Construction Project Program from a wide range of federally assisted projects over which OFCCP has jurisdiction and that have a project cost above $35 million. DOT will require project sponsors with costs above $35 million that receive awards under this funding opportunity to partner with OFCCP, if selected by OFCCP, as a condition of their DOT award. Under that partnership, OFCCP will ask these project sponsors to make clear to prime contractors in the pre-bid phase that project sponsor's award terms will require their participation in the Mega Construction Project Program. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under ''Scheduling'' on the Department of Labor website: *https://www.dol.gov/agencies/ofccp/faqs/construction-compliance.*''

Critical Infrastructure Security and Resilience

It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats, consistent with Presidential Policy Directive 21—Critical Infrastructure Security and Resilience. Each applicant selected for funding under this notice should take efforts in the Corridor's service development planning and Project Development to consider and address, as applicable, relevant physical and cyber security risks, consistent with the cybersecurity performance goals for critical infrastructure and control systems directed by the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems, found at *http://www.cisa.gov/cpgs.*

Domestic Preference Requirements

Assistance under this notice is subject to the Buy America requirements in 49 U.S.C. 22905(a) and the Build America, Buy America Act, Public Law 117–58, sections 70901–52, to the extent applicable to a Corridor's service development planning and Project Development activities. In addition, as expressed in Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers* (86 FR 7475), it is the policy of the executive branch to maximize, consistent with law, the use of goods, products, and materials produced in,

[18] Federal funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

[19] IIJA div. B section 25019 provides authority to use geographical and economic hiring preferences, including local hire, for construction jobs, subject to any applicable State and local laws, policies, and procedures.

and services offered in, the United States. FRA expects all applicants, to the extent this requirement is applicable to a Corridor selected to participate in the Corridor ID Program, to comply with that requirement without needing a waiver. However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

Civil Rights and Title VI

Applications should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR part 21), the Americans with Disabilities Act of 1990 (ADA), and section 504 of the Rehabilitation Act, and accompanying regulations. This may include, as applicable, providing a title VI plan, community participation plan, and other information about the communities that will be benefited and impacted by the Corridor. The Department's and FRA's Offices of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements.

3. Reporting

a. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports must be submitted electronically. Pursuant to 2 CFR 170.210, non-Federal entities applying under this notice must have the necessary processes and systems in place to comply with the reporting requirements should they receive Federal funding.

b. Additional Reporting

Applicants selected for funding are required to comply with all reporting requirements in the standard terms and conditions for FRA grant awards including 2 CFR 180.335 and 2 CFR 180.350. If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported SAM that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

c. Performance and Program Evaluation

Recipients and subrecipients are also encouraged to incorporate program evaluation, including associated data collection activities from the outset of their program design and implementation, to meaningfully document and measure their progress towards meeting an agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Public Law 115–435 (2019) urges Federal awarding agencies and Federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means ''an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.'' 5 U.S.C. 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A–11, part 6 section 290).

For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR part 200).

d. Performance Reporting

Each applicant selected for funding must collect information and report on performance using measures mutually agreed upon by FRA and the grantee to assess progress in achieving strategic goals and objectives.

G. Federal Awarding Agency Contacts

For further information related to this notice, please contact Peter Schwartz, Acting Director, Office of Railroad Planning and Engineering, Federal Railroad Administration, 1200 New Jersey Avenue SE, by email: *PaxRailDev@dot.gov* or by telephone: 202–493–6360.

H. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions.

The DOT regulations implementing the Freedom of Information Act (FOIA) are found at 49 CFR part 7 subpart C—Availability of Reasonably Described Records under the Freedom of Information Act and sets forth rules for FRA to make requested materials, information, and records publicly available under FOIA. Unless prohibited by law and to the extent permitted under the FOIA, contents of application and proposals submitted by successful applicants may be released in response to FOIA requests.

Except for the information properly marked as described in section (H), the Department may share application information within the Department or with other Federal agencies if the Department determines that sharing is relevant to the respective program's objectives.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2022–27559 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2001–11213, Notice No. 27]

Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2023

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notification of determination.

SUMMARY: This notification of determination announces FRA's minimum annual random drug and minimum annual random alcohol testing rates for employees performing covered service under the hours of service laws (HOS employees), maintenance-of-way (MOW) employees, and mechanical (MECH) employees for calendar year 2023.

DATES: This determination takes effect December 20, 2022.

FOR FURTHER INFORMATION CONTACT: Gerald Powers, FRA Drug and Alcohol Program Manager, by email: *gerald.powers@dot.gov* or by telephone: 202–493–6313; or Melissa Van Dermeir, FRA Drug and Alcohol Program Specialist, by email: *melissa.vandermeir@dot.gov* or by telephone: 312–720–9491.

SUPPLEMENTARY INFORMATION: Each year, FRA sets its minimum annual random testing rates after considering the last two complete calendar years of railroad industry drug and alcohol program data submitted to its Management Information System (MIS). FRA, however, reserves the right to consider factors other than MIS-reported data before deciding whether to lower annual minimum random testing rates. *See* 85 FR 81265 (Dec. 15, 2020).

FRA is announcing that its minimum annual random drug and alcohol testing rates for calendar year 2023 will continue to be as follows:

- HOS employees–25 percent for drugs and 10 percent for alcohol.
- MOW employees–25 percent for drugs and 10 percent for alcohol.
- MECH employees–50 percent for drugs and 25 percent for alcohol.

Because these rates represent minimums, railroads and railroad contractors may conduct FRA random testing at higher rates.

Discussion

Random Testing Rates for HOS Employees

The rail industry's random drug testing positive rate for HOS employees remained below 1.0 percent for 2020 and 2021. The Administrator has therefore determined the minimum annual random drug testing rate for HOS employees will remain at 25 percent for the period January 1, 2023, through December 31, 2023. The industry-wide random alcohol testing violation rate for HOS employees remained below 0.5 percent for 2020 and 2021. The Administrator has therefore determined the minimum random alcohol testing rate for HOS employees will remain at 10 percent for the period January 1, 2023, through December 31, 2023.

Random Testing Rates for MOW Employees

The rail industry's random drug testing positive rate for MOW employees remained below 1.0 percent for 2020 and 2021. The Administrator has therefore determined the minimum annual random drug testing rate for MOW employees will remain at 25 percent for the period January 1, 2023, through December 31, 2023. The industry-wide random alcohol testing violation rate for MOW employees remained below 0.5 percent for 2020 and 2021. The Administrator has therefore determined the minimum random alcohol testing rate for MOW employees will remain at 10 percent for the period January 1, 2023, through December 31, 2023.

Random Testing Rates for MECH Employees

On February 2, 2022, FRA expanded the scope of its drug and alcohol regulation (49 CFR part 219) to add MECH employees. *See* 87 FR 5719. As it did with HOS employees and MOW employees when they first became subject to random testing, FRA set the initial minimum annual random testing rates for MECH employees at 50 percent for drugs and 25 percent for alcohol. FRA does not yet have the two full years of MIS data required to adjust the random testing rates for MECH employees. The Administrator has therefore determined that the minimum random testing rates for MECH employees will remain at 50 percent for drugs and 25 percent for alcohol for the period January 1, 2023, through December 31, 2023.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2022–27553 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0263]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: JESSIE JAMES (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0263 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0263 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0263, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel JESSIE JAMES is:

—*Intended Commercial Use of Vessel:* ''Charter and pleasure sportfishing.''
—*Geographic Region Including Base of Operations:* ''New Jersey.'' (Base of Operations: Brigantine, NJ)
—*Vessel Length and Type:* 35′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0263 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0263 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27574 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0264]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BELLA ROSA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0264 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0264 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0264, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email James.Mead@*dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the

intended service of the vessel BELLA ROSA is:

—*Intended Commercial Use of Vessel:* ''Sightseeing day tours of Puget Sound and adjacent waters.''

—*Geographic Region Including Base of Operations:* ''Washington.'' (Base of Operations: Seattle, WA)

—*Vessel Length and Type:* 40′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0264 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0264 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121).

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27569 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0265]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: NO TIME TO DIE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0265 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0265 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0265, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel NO TIME TO DIE is:

—*Intended Commercial Use of Vessel:* ''Time charters.''

—*Geographic Region Including Base of Operations:* ''Florida, New York, Rhode Island, Massachusetts.'' (Base of Operations: Port Washington, NY)

—*Vessel Length and Type:* 80.8′ Motor

The complete application is available for review identified in the DOT docket

as MARAD 2022–0265 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0265 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27578 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0261]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: TABULA RASA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0261 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0261 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0261, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, *Email James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel TABULA RASA is:

—*Intended Commercial Use of Vessel:* ''Pleasure Charters.''

—*Geographic Region Including Base of Operations:* ''Washington, Oregon, California (vessel previously approved for Florida, Virginia, Maryland, Rhode Island, Massachusetts, New Hampshire, and Maine under docket MARAD–2006–25165).'' (Base of Operations: Seattle, WA)

—*Vessel Length and Type:* 57′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0261 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in

accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0261 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27580 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0266]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SEA EAGLE (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0266 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0266 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0266, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SEA EAGLE is:

—*Intended Commercial Use of Vessel:* ''Work at Boy Scouts Sea Base in Islamorada, FL taking scouts and adults on weeklong sailing charters.''
—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: St. Petersburg, FL)
—Vessel Length and Type: 47′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0266 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments

should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0266 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27579 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0259]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MISS STEPHANIE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0259 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0259 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0259, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel MISS STEPHANIE is:

—*Intended Commercial Use of Vessel:* ''Will be time chartered for the private use of the charterer and its guests. The vessel will not be used to transfer cargo between ports.''

—*Geographic Region Including Base of Operations:* ''Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine.'' (Base of Operations: Ft. Lauderdale, FL)

—*Vessel Length and Type:* 136′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0259 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given

in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0259 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27577 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0267]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: H2 007 (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0267 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0267 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0267, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel H2 007 is:

—*Intended Commercial Use of Vessel:* ''Sailing charters use as a bed and breakfast.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: St. Augustine, FL)

—*Vessel Length and Type:* 38′ Sail (catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0267 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected

on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0267 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27572 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0262]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FEEL N FROGGY (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0262 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0262 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0262, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel FEEL N FROGGY is:

—*Intended Commercial Use of Vessel:* ''Luxury sailing charters.''

—*Geographic Region Including Base of Operations:* ''Texas, Florida, Louisiana, Georgia, Alabama, Puerto Rico.'' (Base of Operations: Kemah, TX)

—*Vessel Length and Type:* 50′ Aux Sail, catamaran

The complete application is available for review identified in the DOT docket as MARAD 2022–0262 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary.

There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0262 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27571 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0258]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DIM SUM (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0258 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0258 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0258, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel DIM SUM is:

—*Intended Commercial Use of Vessel:* ''Charter.''
—*Geographic Region Including Base of Operations:* ''Oregon, Washington, California.'' (Base of Operations: Portland, OR)
—*Vessel Length and Type:* 27′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0258 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0258 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for

new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27570 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0257]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LAST WALTZ (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0257 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0257 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0257, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LAST WALTZ is:

—*Intended Commercial Use of Vessel:* ''For use by the Boy Scouts of America, 501 C 3 non-profit, at its Summerland Key Sea Base. Not a commercial use otherwise. Not to be chartered for profit.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Summerland Key, FL)

—*Vessel Length and Type:* 37′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0257 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0257 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27576 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0256]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: UNCLE MO' II (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0256 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0256 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0256, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel UNCLE MO' II is:

—*Intended Commercial Use of Vessel:* ''Day charters for intracoastal waterway cruises or deep sea fishing right off the coast of Delray Beach FL. Intention is to keep the charter days to 10-days per year or less.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Delray Beach, FL)

—*Vessel Length and Type:* 70′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0256 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0256 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains

CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27581 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0255]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KUMA TOO (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0255 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0255 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0255, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KUMA TOO is:

—*Intended Commercial Use of Vessel:* ''Offer term sailing charters.''
—*Geographic Region Including Base of Operations:* ''Florida, Puerto Rico.'' (Base of Operations: Dunedin, FL)
—*Vessel Length and Type:* 47′ Sail (catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0255 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0255 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA

regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27575 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0260]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: 42 (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0260 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0260 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0260, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel 42 is:

—*Intended Commercial Use of Vessel:* ''Sightseeing and snorkeling.''
—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Key West, FL)
—*Vessel Length and Type:* 55′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0260 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0260 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's

compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27568 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0268]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VALKYRIE (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 19, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0268 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0268 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0268, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel VALKYRIE is:

—*Intended Commercial Use of Vessel:* ''Day sails in Waikiki and around the Hawaiian Islands.''

—*Geographic Region Including Base of Operations:* ''Hawaii.'' (Base of Operations: Honolulu, HI)

—*Vessel Length and Type:* 64.8′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0268 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0268 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–27582 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2922–0049]

Agency Information Collection Activities; Notice and Request for Comment; Crash Report Sampling System (CRSS), Non-Traffic Surveillance (NTS) and Special Studies Data Collection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for extension with modification of a currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document describes a currently approved collection of information for which NHTSA intends to seek approval from OMB for extension with modification on NHTSA's Records-Based Crash Data Studies: Crash Report Sampling System (CRSS), Non-Traffic Surveillance (NTS), and special studies. A **Federal Register** notice with a 60-day comment period soliciting comments on the following information collection was published on September 28, 2022. One supporting comment was received.

DATES: Written comments should be submitted by January 19, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information on, select ''Currently under Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT:

For additional information or access to background documents, contact Jonae S. Anderson, State Data Reporting Systems Division (NSA–120), (202) 366–1028, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted to OMB.

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on September 28, 2022 (87 FR 58905).

Title: Crash Report Sampling System (CRSS), Non-Traffic Surveillance System (NTS), and Special Studies.

OMB Control Number: 2127–0714.

Form Number(s): 1696.

Type of Request: Request for extension with modification of a currently approved information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information:

NHTSA is authorized by 49 U.S.C. 30182 and 23 U.S.C. 403 to collect data on motor vehicle traffic crashes to aid in the identification of issues and the development, implementation, and evaluation of motor vehicle and highway safety countermeasures to reduce fatalities and the property damage associated with motor vehicle crashes. Using this authority, NHTSA established the Crash Report Sampling System (CRSS), CRSS related Special Studies and the Non-Traffic Surveillance (NTS). Through these efforts, NHTSA collects data on motor vehicle crashes, including crashes involving injuries and fatalities, property damage only crashes, as well as non-traffic crashes that involve injuries and fatalities. NHTSA uses information from these data collections to support NHTSA's mission to save lives, prevent injuries, and reduce economic losses resulting from motor vehicle crashes.

Since late 1970s, NHTSA's National Center for Statistics and Analysis (NCSA) has utilized a multidisciplinary approach to meet the data needs of our end users that leverages an efficient combination of census, sample-based, and existing State files to provide information on traffic crashes on a timely basis. Beginning in 2016, the CRSS has been used to identify highway safety problem areas and provide general data trends. The Non-Traffic Surveillance System (NTS) provides data regarding fatalities and injuries that occur in non-traffic crashes and non-crash incidents.

CRSS obtains data from a nationally representative probability sample selected from police reported motor vehicle traffic crashes. Specifically, CRSS collects data on crashes involving at least one motor vehicle in transport on a trafficway that resulted in property damage, injury or a fatality will be included in the CRSS sample. The crash reports sampled will be chosen from selected areas that reflect the geography, population, miles driven, and the number of crashes in the United States. No additional data beyond the selected crash reports will be collected. Once the crash reports are received, they will be coded and the data will be entered into the CRSS Records Based Information Solution (RBIS), the repository for CRSS cases and reporting tools.

CRSS will acquire nationally representative information on fatalities, injuries and property damage directly from existing State police crash reports. The user population includes Federal and State agencies, automobile manufacturers, insurance companies, and the private sector. Annual changes in the sample parameters are minor in terms of operation and method of data collection, and do not affect the reporting burden on respondents.

The Non-Traffic Surveillance (NTS) is a data collection effort for collecting information about counts and details regarding fatalities and injuries that occur in non-traffic crashes and non-crash incidents. Non-traffic crashes are crashes that occur off a public trafficway (*e.g.,* private roads, parking lots, or driveways), and non-crash incidents are incidents involving motor vehicles but do not involve a crash scenario, such as carbon monoxide poisoning and hypo/hyperthermia. NTS non-traffic crash data are obtained through NHTSA's data collection efforts for the Crash Report Sampling System (CRSS), the Crash Investigation Sampling System (CISS),[1] and the Fatality Analysis Reporting System (FARS).[2] NTS also includes data outside of NHTSA's own data collections. NTS' non-crash injury data is based upon emergency department records from a special study conducted by the Consumer Product Safety Commission's National Electronic Injury

[1] NHTSA's information collection for CISS is covered by the ICR with OMB Control No. 2127–0706.

[2] NHTSA's information collection for FARS is covered by the ICR with OMB Control No. 2127–0006.

Surveillance System (NEISS) All Injury Program. NTS non-crash fatality data is derived from death certificate information from the Centers for Disease Control's National Vital Statistics System.

For the NTS data collection this notice only discusses for the non-traffic crash portion that is collected using methods for the CRSS data collection. The non-traffic crash data that feed into NTS from the FARS and CISS data collection efforts are covered under information collection clearances for those data collection efforts. This is done because the data is collected differently under each of NHTSA's three data collection efforts. During the CRSS and CISS sampling process, NTS applicable crashes will be chosen from the same sample sites. The FARS data collection effort uncovers NTS applicable reports received from the State during their normal data collection activities for FARS. Therefore, the burden for NTS is included in each study's calculation. No additional data will be collected beyond the NTS applicable reports. Once the crash reports are received, each case will be coded into the NTS RBIS application. NHTSA uses NTS data to estimate fatalities and injuries in non-traffic crashes, which are crashes which occur off the trafficways such as nonpublic roads, driveways, and parking lots.

In addition to CRSS data collection, NHTSA may require special studies to further analyze motor vehicle crashes in the CRSS jurisdictions. One type of special study is the collection of data from the non-sampled crashes from CRSS Police Jurisdictions (PJs) by the crash report Strata, NTS applicable, or out of scope, to help assess the accuracy of the PJ frame. Non-sample PJs are defined as PJs that investigate motor vehicle crashes within the CRSS PSU boundaries but are not sampled through the CRSS study.

Another special study NHTSA may require is the CRSS PJ frame evaluation. The PJ frame is constantly changing: new PJs start operating, existing PJs are closed, multiple PJs are merged into one PJ, or one PJ splits into multiple PJs. The current CRSS PJ sample was selected from the 2016 PJ frame and the PJ weights were calculated accordingly. If the PJ frame has changed dramatically from the 2016 PJ frame, the CRSS PJ weights are no longer correct and the CRSS estimates may be biased. To prevent this, NHTSA needs to evaluate the current PJ frame to identify all PJs that currently generate PCRs for the sampled non-Electronic Data Transfer (EDT) PSUs and collect 6 crash counts (total crashes, fatal crashes, injury crashes, pedestrian crashes, motorcycle crashes, and commercial motor vehicle crashes). The EDT is the nightly transfer of crash data. EDT PSUs have been collapsed into one PJ and sample crash reports throughout the county. Thus, the concern of completeness of the PJ frame in EDT PSUs, isn't an issue. Additionally, this study is different from the non-sample count special study, because the six crash counts are unrelated to CRSS or NTS applicability. These crash counts will be used as PJ measurement of size for PJ sample selection or PJ weight adjustment if needed.

NHTSA is seeking approval to modify the existing information collection to (a) reduce the burden hour estimates for CRSS information collection to account for previous inflated estimates and current efficiencies and (b) add the non-sampled Special Study into this package. The combined impact is an increase of 6,998 burden hours to NHTSA's overall total.

Description of the Need for the Information and Proposed Use of the Information: NHTSA's mission is to save lives, prevent injuries, and reduce economic losses resulting from motor vehicle crashes. To accomplish this mission, NHTSA needs high-quality data on motor vehicle crashes. The CRSS supports this mission by providing the agency with vital information about a nationally representative sample involving motor vehicle traffic crashes that occur on our nation's roadways.

CRSS data is used extensively by all the NHTSA program and research offices, other DOT modes, States, and local jurisdictions. The highway research community uses the CRSS data for trend analysis, problem identification, and program evaluation. Congress uses the CRSS data for making decisions concerning safety programs. The CRSS data is made publicly available to anyone interested in highway safety.

The NTS is a Congressionally mandated data collection effort, which provides counts and details regarding injuries and fatalities that occur in non-traffic crashes and in non-crash incidents. NTS annual data is used to produce estimates for injuries and fatalities in non-traffic crashes. The NTS data is also made publicly available for highway safety research purposes.

The special studies such as the non-sample count and PJ frame evaluation are critical to assessing the quality of the PJ frame of the CRSS PSUs to determine PJ weights and measure of size for the CRSS PJ sample selection. Without the special studies, NHTSA may fail to accurately assess the national crash picture by missing pertinent crash data.

60-Day Notice: NHTSA published a 60-day notice in the **Federal Register** on September 28, 2022 (87 FR 58905). NHTSA received one supporting comment from the National Association of Mutual Insurance Companies (NAMIC), emphasizing the proposed data collection is critical for the proper performance of the functions of NHTSA and the proposed collection will have great practical utility. Furthermore, NAMIC asserts NHTSA should propose more widespread, extensive, and granular auto safety and crash data recording and reporting. NAMIC also offered assistance with providing specific metrics, key performance indicators (KPIs), and measures of success.

Burden to Respondents: NHTSA has provided a description of the affected public, estimated number of respondents, description of frequency, and estimates of the total burden hours and costs for the CRSS, NTS and Special Studies (CRSS, NTS and Special Studies) below. In aggregate, NHTSA estimates that the total annual burden is 42,680 hours and $0.

Program: CRSS, NTS and Special Studies.

Affected Public: Various police jurisdictions and State agencies.

Local police jurisdictions (PJs) and State agencies that collect and maintain central databases of motor vehicle crashes partner with NHTSA to provide access to crash reports for the CRSS sample sites on a routine basis. CRSS collects data from sampled police jurisdictions in order to collect a nationally representative sample. However, because CRSS only collects information from police crash reports for many jurisdictions, NHTSA is able to collect the data directly from the States. This is because States have been moving toward more electronic and centralized data collection systems.

Estimated Number of Respondents: NHTSA estimates that approximately 28 States and 44 police jurisdictions will provide crash data to support CRSS in each of the next three years. Because the portion of NTS data that comes from the CRSS data collection relies on the CRSS data collection methodologies, NHTSA estimates that the same 72 respondents will also provide data to NHTSA through the CRSS data collection effort. The estimated number of respondents for the non-sample count special study is approximately 136 PJs. The estimated number of respondents for the PJ frame evaluation is approximately 1,248 PJs.

Frequency: Varies.

The frequency of providing crash reports is established by the local PJs and State agencies. Typically, weekly, or bi-weekly access to crash reports is provided.

Estimated Number of Responses Annually: NHTSA estimates 677,005 crash reports, which includes both the CRSS and NTS crashes from the sample PJs. However, of the 677,005 crashes, it is estimated that 3,000 of those will be NTS applicable crashes and thus remainder could be CRSS applicable crashes is 674,005. Additionally, it is estimated that the non-sample special studies will generate 247,110 crashes from the non-sample PJs. The number of crashes for the PJ frame evaluation will be estimated at the total of crash reports generated from combining the sample and non-sample PJs to derive the six crash counts. Thus, the number of generated crash reports estimated is 677,005+247,110=1,410,551 crashes.

Study	Estimated number of crashes
CRSS	674,005
NTS	3,000
Non-Sample Special Study	247,100
PJ Frame Evaluation Special Study	1,410,551
Grand Total	1,410,551

Estimated Total Annual Burden Hours: 42,680 hours.

Within the 30 States or 60 CRSS Primary Sampling Units (PSUs) there are Police Jurisdictions (PJs), from which a CRSS sampler must obtain crash reports for listing, categorization, and sampling. Currently, 50 PSUs provide NHTSA data electronically—through EDT, State website access, or web service portal. For one State, the crash reports are obtained through EDT and manually since not all crashes are reported through EDT. Therefore, NHTSA counted that state more than once due to the crash report acquisition method. However, there is a total of 10 PSUs, or 21 local PJs, where crash reports collection is conducted in the field using a combination of electronic and manual methods as dictated by the sample PJ's crash report collection methods. These PJs required field samplers which incur an increased burden due to the labor-intensive administrative practices and privacy protections associated with manually accessing the crash reports. The total respondents doesn't equal to 30 States or 60 PSUs, due to the variation in accessing crash reports throughout the sample.

The annual burden estimate detailed in Table 1 is produced by identifying the crash report access method for each PSU and PJ and assigning the appropriate burden hours for that method as outlined below.

- EDT Maintenance—For PSUs providing crash report through EDT, the burden is estimated at 5 hours annually. This accounts for yearly updates to programming needed to successfully transmit data, such as updating data structures if new data elements are added or any changes to the state made to their crash report and/or databases.
- State website—User Access Only: For PSUs providing crash reports via a state repository/website or database, the burden is estimated at 10 hours annually. This represents time to process user account requests, establish credentials, and routine maintenance of the State's data repositories.
- State website—User Access and Additional Administrative Functions: For PSUs providing crash reports directly to NHTSA via web service or where the State employees provide user access accounts in addition to regularly searches for crash reports, compiles the lists of crashes to send to NHTSA monthly, the burden is estimated at 60 hours annually. This represents implementation, data transfer monitoring, and communications with NHTSA and its contractors.
- For PSUs providing crash reports to NHTSA via manual crash report access methods (*i.e.,* weekly physical visits to a PJ, copying crash reports and mailing them, and searching for recently completed crash reports and uploading crash reports to secure email links), the burden is estimated at 470 hours annually. This represents—but is not limited to—maintaining a law enforcement presence while the crash reports are being reviewed, and/or providing resources to the CRSS sampler in order to access the crash reports. This is the most labor extensive access type due to the administrative burden and the additional processes required to protect PII. Other local police jurisdictions may photocopy crash reports and FedEx to the contractors or download electronic crash reports to submit electronically via secure email or thumb drive monthly.

Access method	Hours per jurisdiction	Number of respondents—police jurisdiction (PJ) or states	Total hours
EDT (Maintenance)	5	14	70
State Website (user access only)	10	11	110
State Website (user access and additional administrative functions)	60	2	120
Web Service (user access and States query and compile info)	60	1	60
Mixed Manual	470	44	20,680
Grand Total		72	21,040

On an ad-hoc basis, NHTSA requests a non-sample count special study to assess the Police Jurisdiction (PJ) frame. The non-sample count and the PJ Frame evaluation studies are critical to assessing the quality of the PJ frame of the CRSS PSUs to determine PJ weights and measure of size for the CRSS PJ sample selection. Without the special studies, NHTSA may fail to accurately assess the national crash picture by missing pertinent crash data.

Number of Respondents: 136 (Non-Sample Count Special Study).

Estimated Total Annual Burden Hours: 21,307 (Non-Sample Count Special Study).

The burden calculation for the non-sample count special study is difficult to determine. Each burden calculation is associated with the agreed upon crash report access method for sample sites. For non-sample PJs we have no established relationship nor is it known which type of access to crash report is feasible. Most importantly, non-sample count special studies are conducted on an ad-hoc basis and not implemented every year. Table 2 illustrates non-sample counts by access method in the state for sample sites.

EDT has been removed from the table because CRSS samples from the entire county, there is no distinction between the non-sample and sample PJs. This is an added benefit to EDT implementation as we get an accurate assessment of the PSU frame by CRSS strata. State websites with user access have non-sample PJs however, there is no added burden because the initial access granted is at the state level. State website with user access and additional administrative functions provide NHTSA data at the county level, which includes both sample and non-sample PJs, thus there is no additional burden to the state. Webservice agreements also provide data at the county level, thus there is no additional burden to the state. States noted as having manual methods only account for the sample PJs. Without established cooperation, NHTSA can't forecast individual PJs access methods for the purposes of the burden calculation. Thus, the maximum burden for the non-sample count special study's estimated burden is 21,307 with the possibility of reduction with cooperative agreements finalized.

Access method	Hours per jurisdiction	Number of respondents-police jurisdiction (PJ) or states	Total hours
State Website (user access only)	10	0	0
State Website (user access and additional administrative functions)	60	0	0
Web Service (user access and States query and compile info)	60	0	0
Manual	470	136	21,307 (470*136/3)
Grand Total		136	21,307

Number of Respondents: 1,248 (PJ Frame Evaluation Special Study).

Estimated Total Annual Burden Hours: 333 (PJ Frame Evaluation Special Study).

The activities associated with PJ frame evaluation special study include identifying the in-scope PJs and contacting the in-scope PJs for the 6 crash counts. NHTSA estimates there are total 40 non-EDT PSUs and about 1,248 PJs in those non-EDT PSUs. NHTSA estimates it would about 1 minute per PJ to confirm if any changes to the PJ since the 2016. NHTSA anticipates approximately 15 minutes (0.25 hours) for each PJ to prepare the 6 crash counts. NHTSA estimates the total number of hours of response burden is about 333 hours.

PJ frame evaluation	Hours per jurisdiction	Number of respondents jurisdiction (PJ)	Total hours
Manual	16 Minutes	1,248	333 (16/60*1,248)
Grand Total		1,248	333

This hourly burden was calculated using the Bureau of Labor Statistics' mean hourly wage estimate for Court, Municipal, and License Clerks (Standard Occupational Classification #43–4031) [3] from May 2021 of $21.57. Therefore, NHTSA estimates the hourly wage associated with the estimated 21,040 burden hours to be $453,832.80 (21,040 hours × $21.57 per hour). This is a reduction of the previously reported burden of 35,680 labor hours and estimated costs of $705,036.80. The efficiencies with the increased implementation of the EDT and better understanding of local and state crash repositories contribute to the reduction in burden labor hours and subsequent costs. The Bureau of Labor Statistics estimates that for State and local government workers, wages represent 54.96% of total compensation.[4] Therefore, the total cost of burden associated with this collection is estimated to be $825,751.09 ($453,832.80/.5496).

The total burden hours are presented in the table below but described for each study.

Study	Total burden hours
CRSS	21,040
NTS	0
Non-Sample Special Study	21,307
PJ Frame Evaluation Special Study	333
Grand Total	42,680

Estimated Total Annual Burden Cost: $0.

NHTSA estimates that there are no costs associated with this information collection other than labor costs associated with burden hours. This is a drastic decrease from the $1.7 M from when NHTSA last sought approval for this information collection. The decrease in costs is a result of removing labor costs associated with labor hours that were included in response to question 12, but unfortunately were incorrect.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be

[3] *See* May 2021 National Industry-Specific Occupational Employment and Wage Estimates, 43–4031—Court, Municipal, and License Clerks, available at *https://www.bls.gov/oes/current/oes434031.htm* (accessed May 18, 2022).

[4] *See* Table 1. Employer Costs for Employee Compensation by ownership (Dec. 2021), available at *https://www.bls.gov/news.release/ecec.t01.htm* (accessed May 18, 2022).

collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Chou Lin Chen,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2022–27561 Filed 12–19–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Guidance on Sound Incentive Compensation Policies

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on the renewal of an information collection as required by the Paperwork Reduction Act of 1995 (PRA). An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning renewal of an information collection titled, ''Guidance on Sound Incentive Compensation Policies.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Written comments should be submitted by January 19, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0245, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0245'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0245'' or ''Guidance on Sound Incentive Compensation Policies.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests and/or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Guidance on Sound Incentive Compensation Policies.

OMB Number: 1557–0245.

Abstract: The guidance states that each large national bank and Federal savings association should: (i) have policies and procedures that identify and describe the role(s) of the personnel and units authorized to be involved in developing and administering incentive compensation arrangements, identify the source of significant risk-related factors, establish appropriate controls governing these factors to help ensure their reliability, and identify the individual(s) and unit(s) whose approval is necessary for the establishment or modification of incentive compensation arrangements; (ii) create and maintain sufficient documentation to permit an audit of the organization's processes for developing and administering incentive compensation arrangements; (iii) have any material exceptions or adjustments to the incentive compensation arrangements established for senior executives approved and documented by its board of directors; and (iv) have its board of directors receive and review, on an annual or more frequent basis, an assessment by management of the effectiveness of the design and operation of the organization's incentive compensation system in providing risk-taking incentives that are consistent with the organization's safety and soundness. The principles discussed in the guidance will vary with the size and complexity of a banking organization, and monitoring methods for small banks are not directly addressed by these four policies and procedures in the guidance.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents for Yearly Maintenance: 1,093 (38 large banks; 1,055 small banks).

Estimated Number of Respondents for Setup: 1 large bank; 1 small bank.

Estimated Burden per Respondent: 520 hours for large banks (480 hours for set up; 40 hours for yearly maintenance); 90 hours for small banks (60 hours for set up; 30 hours for yearly maintenance).

Total Annual Burden: 33,710 hours.

Frequency of Response: Annually.

On September 20, 2022, the OCC published a notice for 60 days of comments concerning this collection, 87 FR 57555. No comments were received. Comments continue to be solicited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–27591 Filed 12–19–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Extensions of Credit to Insiders and Transactions With Affiliates

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, ''Extensions of Credit to Insiders and Transactions with Affiliates.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: You should submit comments by January 19, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0336, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0336'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0336'' or ''Extensions of Credit to Insiders and Transactions with Affiliates.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests and/or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Extensions of Credit to Insiders and Transactions with Affiliates.

OMB Number: 1557–0336.

Description: National banks and Federal savings associations must comply with rules of the Board of Governors of the Federal Reserve System (Board) regarding extensions of credit to insiders (Regulation O) [1] and transactions with affiliates (Regulation W),[2] which implement section 22 and sections 23A and 23B, respectively, of the Federal Reserve Act (FRA).[3] Twelve CFR part 31 addresses these transactions for national banks and Federal savings associations. Specifically, 12 CFR 31.2 requires national banks and Federal savings associations to comply with Regulation O, and 12 CFR 31.3 requires national banks and Federal savings associations to comply with Regulation W. Appendix A to part 31 provides interpretive guidance on the application of Regulation W to deposits between affiliated banks.

Twelve CFR 31.3(c) implements the statutory standards for authorizing an exemption from section 23A of the FRA or section 11 of the Home Owners' Loan Act (HOLA) [4] in accordance with section 608 of the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 608, which became effective on July 21, 2012, amended section 23A of the FRA and section 11 of the HOLA to authorize

[1] 12 CFR part 215.

[2] 12 CFR part 223.

[3] 12 U.S.C. 371c, 371c–1, 375a, and 375b. In addition, section 11 of the Home Owners' Loan Act, 12 U.S.C. 1468, includes certain restrictions on transactions with affiliates that are not included in FRA section 23A.

[4] 12 U.S.C. 1468.

the OCC to exempt, by order, a transaction of a national bank or Federal savings association, respectively, from the affiliate transaction requirements of section 23A and section 11 of the HOLA if: (1) the OCC and the Board jointly find the exemption to be in the public interest and consistent with the purposes of section 23A or section 11 and (2) within 60 days of receiving notice of such finding, the Federal Deposit Insurance Corporation does not object in writing to the finding. Such objection would be based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.[5]

Twelve CFR 31.3(d) sets forth procedures that a national bank and Federal savings association must follow to request such exemptions. These procedures are modeled after the Board's procedures in Regulation W. A national bank or Federal savings association may request an exemption from the requirements of section 23A or section 11 of the HOLA, as applicable, and 12 CFR part 223 by submitting a written request to the Deputy Comptroller for Licensing with a copy to the appropriate Federal Reserve Bank. The request must:

(1) Describe in detail the transaction or relationship for which the national bank or Federal savings association seeks an exemption;

(2) Explain why the OCC should exempt the transaction or relationship;

(3) Explain how the exemption would be in the public interest and consistent with the purposes of section 23A or section 11 of the HOLA, as applicable; and

(4) Explain why the exemption does not present an unacceptable risk to the Deposit Insurance Fund.

[4] 12 U.S.C. 1468.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 1.

Estimated Frequency of Response: On occasion.

Estimated Total Annual Burden: 10 hours.

On August 22, 2022, the OCC published a 60-day notice for this information collection, (87 FR 51487). No comments were received. Comments continue to be solicited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–27596 Filed 12–19–22; 8:45 am]

BILLING CODE 4810–33–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 SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On December 15, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked and also identified the following property as blocked under the relevant sanctions authority listed below.

1. PUBLIC JOINT STOCK COMPANY ROSBANK (f.k.a. AKB ROSBANK OAO; f.k.a. AKB ROSBANK PAO; f.k.a. COMMERCIAL BANK NEZAVISIMOST; f.k.a. JOINT STOCK COMMERCIAL BANK ROSBANK; a.k.a. ROSBANK PJSC), 34 Mashy Poryvaevoy Street, Moscow 107078, Russia; PO Box 208, Moscow 107078, Russia; SWIFT/BIC RSBNRUMM; Website https://www.rosbank.ru/; Organization Established Date 02 Mar 1993; Equity Ticker ROSB; ISIN RU000A0HHK26; Target Type Financial Institution; Tax ID No. 7730060164 (Russia); Legal Entity Number HOXMZG026UQNRK6J0C60 (Russia); Registration Number 1027739460737 (Russia) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(i) of Executive Order 14024 of April 15, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," 86 FR 20249 (April 19, 2021) (E.O. 14024) for operating or having operated in the financial services sector of the Russian Federation economy.

2. ESTATE MANAGMENT COMPANY LIMITED (Cyrillic: ООО ЭСТЕЙТ МЕНЕДЖМЕНТ) (a.k.a. ESTATE MANAGEMENT CO. LTD.), d. 11 litera A kom. 437 ofis A410, per. Degtyarny, St. Petersburg 191144, Russia; Organization Established Date 19 Feb 2010; Organization Type: Real estate activities with own or leased property; Tax ID No. 7842425303 (Russia); Government Gazette Number 64275786 (Russia); Registration Number 1107847046801 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

3. KORDEX JOINT STOCK COMPANY (a.k.a. AO KORDEKS (Cyrillic: АО КОРДЕКС); a.k.a. KORDEX AO; f.k.a. KORDEX OOO; a.k.a. NEPUBLICHNOE AKTSIONERNOE OBSCHCHESTVO KORDEX), 44, shosse Yaroslavskoe, Moscow 129337, Russia; Organization Established Date 13 Nov 2009; Organization Type: Management consultancy activities; Tax ID No. 7716823181 (Russia); Government Gazette Number 63681478 (Russia); Registration Number 1167746394881 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

4. RYABINOVAYA OOO (Cyrillic: ООО РЯБИНОВАЯ) (a.k.a. OBSHCHESTVO S ORGANICHENNOI OTVETSTVENNOSTYU RYABINOVAYA), 4 d., ul. Shosseinaya Moscow, Moscow 109548, Russia; Organization Established Date 06 Nov 2015; Organization Type: Real estate activities on a fee or contract basis; Tax ID No. 7723416596 (Russia); Registration Number 5157746021043 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

5. LIMITED LIABILITY COMPANY VTB INFRASTRUCTURE INVESTMENTS (a.k.a. LLC VTB INFRASTRUCTURE INVESTMENTS (Cyrillic: ООО ВТБ ИНФРАСТРУКТУРНЫЕ ИНВЕСТИЦИИ); a.k.a. VTB INFRASTRUKTURNYE INVESTITSII), Presnenskay Nab D. 10, Floor 15, Pomeshchenie III, Moscow 123112, Russia; d. 12 etazh 20 Mesto 20.41V, naberezhnaya Presnenskaya, Moscow 123112, Russia; Organization Established Date 28 May 2012; Organization Type: Other business support service activities n.e.c.; Tax ID No. 7703768889 (Russia); Government Gazette Number 09824582 (Russia); Registration Number 1127746409801 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

6. JOINT STOCK COMPANY VTB DEVELOPMENT (a.k.a. AKTSIONERNOE OBSHCHESTVO VTB DEVELOPMENT; a.k.a. AO VTB DEVELOPMENT (Cyrillic: АО ВТБ ДЕВЕЛОПМЕНТ); a.k.a. VTB DEVELOPMENT AO), Ul. B. Morskaya D. 30, Saint Petersburg 190000, Russia; d. 11 litera A kom 560, per. Degtyarny, St. Petersburg 191144, Russia; Organization Established Date 07 Jul 2005; Organization Type: Non-specialized wholesale trade; Tax ID No. 7838327945 (Russia); Registration Number 1057811461091 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

7. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU VTB SYRYEVYE TOVARY KHOLDING (a.k.a. OBSHCHESTVO S

ORGANICHENNOI OTVETSTVENNOSTYU VTB SYREVYE TOVARY KHOLDING; a.k.a. VTB SYREVYE TOVARY KHOLDING OOO (Cyrillic: ООО ВТБ СЫРЬЕВЫЕ ТОВАРЫ ХОЛДИНГ); a.k.a. VTB SYRYEVYE TOVARY KHOLDING), Nab. Presnenskaya D. 12, Floor 31 Mesto 31.147, Moscow 123112, Russia; Organization Established Date 30 Mar 2016; Organization Type: Non-specialized wholesale trade; Tax ID No. 7703408597 (Russia); Registration Number 1167746344248 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

8. MEGACOM LIMITED LIABILITY COMPANY (a.k.a. MEGAKOM (Cyrillic: МЕГАКОМ)), Ul. Letnikovskaya D. 20, Str. 4, Pom. I. Kom. 3, Moscow 115114, Russia; Organization Established Date 10 Apr 2006; Organization Type: Construction of buildings; Tax ID No. 7705725009 (Russia); Registration Number 1067746471990 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

9. LIMITED LIABILITY COMPANY VTB COMMERCIAL FINANCE (a.k.a. VTB COMMERCIAL FINANCE LLC (Cyrillic: ООО ВТБ КОММЕРЧЕСКОЕ ФИНАНСИРОВАНИЕ)), Nab. Presnenskaya D. 6, Str. 2, Floor 6, Pomeshch.1, Moscow 123112, Russia; Organization Established Date 19 Apr 2021; Target Type Financial Institution; Tax ID No. 9703032732 (Russia); Registration Number 1217700186440 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

10. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU PROEKT (a.k.a. VTB PROEKT OOO (Cyrillic: ООО ВТБ ПРОЕКТ)), d. 43 str. 1, ul. Vorontsovskaya, Moscow 109147, Russia; Organization Established Date 22 Feb 2012; Organization Type: Financial leasing; alt. Organization Type: Real estate activities on a fee or contract basis; Tax ID No. 7710907460 (Russia); Registration Number 1127746118752 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

11. VB-SERVICE COMPANY LIMITED (a.k.a. VB-SERVICE LTD (Cyrillic: ООО ВБ-СЕРВИС)), d. 12 kom. A8, naberezhnaya Presnenskaya, Moscow 123112, Russia; Ul. Marksistskaya D. 5, Kor. 1, Moscow 109147, Russia; Organization Established Date 26 Nov 1998; Organization Type: Real estate activities on a fee or contract basis; Tax ID No. 7709266211 (Russia); Government Gazette Number 18700821 (Russia); Registration Number 1027739150900 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

12. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU DOLGOVOI TSENTR (a.k.a. DOLGOVOI TSENTR, OOO (Cyrillic: ООО ДОЛГОВОЙ ЦЕНТР)), Pl. Turgenevskaya D. 2, Pomeshch. XV, Kom. 6, Moscow 101000, Russia; Organization Established Date 24 Apr 2006; Organization Type: Other business support service activities n.e.c.; Tax ID No. 7708597482 (Russia); Registration Number 1067746524471 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

13. JOINT STOCK COMPANY CITYBIKE (a.k.a. AKTSIONERNOE OBSHCHESTVO SITIBAIK; a.k.a. SITIBAIK AO (Cyrillic: АО СИТИБАЙК)), Nab. Berezhkovskaya D. 20, Str. 9, Pomeshch. 1, Moscow 121059, Russia; Organization Established Date 23 Nov 2012; Tax ID No. 7734691058 (Russia); Registration Number 1127747175160 (Russia) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

14. ITC CONSULTANTS CYPRUS LIMITED, Christodoylou Chatzipaylou 221 Helios Court, Floor No. 1, Limassol 3036, Cyprus; Organization Established Date 09 Oct 1989; Organization Type: Management consultancy activities; Registration Number HE37569 (Cyprus) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

15. EMBASSY DEVELOPMENT LIMITED, New Street 26, Saint Helier JE2 3RA, Jersey; Organization Established Date 06 May 2005; Target Type Financial Institution; Registration Number 90112 (United Kingdom) [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

16. VTB LEASING JOINT STOCK COMPANY (a.k.a. AO VTB LIZING; a.k.a. JSC VTB LEASING; a.k.a. VTB LEASING JSC), Per. 2-I Volkonskii, D. 10, Moscow 127473, Russia; Ul. Vorontsovskaya, D. 43, Str.1, Moscow 109147, Russia; Website www.vtb-leasing.ru; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 13 Jun 2002; Organization Type: Financial leasing; Registration ID 1037700259244 (Russia); Tax ID No. 7709378229 (Russia); For more information on directives, please visit the following link: http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

17. AKTSIONERNOE OBSHCHESTVO SG-DEVELOPMENT (f.k.a. GALS-DEVELOPMENT PAO; f.k.a. HAS-DEVELOPMENT JSC; f.k.a. JOINT STOCK COMPANY HALS-DEVELOPMENT; f.k.a. PUBLIC JOINT STOCK COMPANY HALS-DEVELOPMENT; f.k.a. PUBLIC JOINT STOCK COMPANY SG-DEVELOPMENT; a.k.a. SG-DEVELOPMENT, AO), d. 35 str. 1 Etazh 5, Pomeshch. I, Kom. 129, Prospekt Leningradski, Moscow 125284, Russia; Website www.hals-development.ru; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 21 Jan 1994; Organization Type: Real estate activities on a fee or contract basis; Registration ID 1027739002510 (Russia); Tax ID No. 7706032060 (Russia); For more information on directives, please visit the following link: http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

18. VTB REAL ESTATE LIMITED LIABILITY COMPANY (a.k.a. VTB NEDVIZHIMOST, OOO; a.k.a. VTB REAL ESTATE, LLC), d. 10 etazh 7 (BLOK A), Naberezhnaya Presnenskaya, Moscow 123112, Russia; Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 08 Apr 2011; Organization Type: Real estate activities on a fee or contract basis; Registration ID 1117746272907 (Russia); Tax ID No. 7729679810 (Russia); Government Gazette Number 91457857 (Russia); For more information on directives, please visit the following link: http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked To: VTB BANK PUBLIC JOINT STOCK COMPANY).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, VTB BANK PUBLIC JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

Dated: December 15, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–27556 Filed 12–19–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Carbon Dioxide Sequestration Credit

AGENCY: Departmental Offices, U.S. 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 Form 8933, Carbon Dioxide Sequestration Credit.

DATES: Comments should be received on or before January 19, 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: Carbon Dioxide Sequestration Credit.

OMB Number: 1545–2132.

Form Number: 8933.

Abstract: Use Form 8933 to claim the carbon oxide sequestration credit. The credit is allowed for qualified carbon oxide that is captured and disposed of or captured, used, and disposed of by the taxpayer in secure geological storage. Only carbon oxide captured and disposed of or used within the United States or a U.S. possession is taken into account when figuring the credit.

Current Actions: Form 8933 has been updated and revised to reflect new provisions under Public Law 117–169, section 13104.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals or households, and Farms.

Estimated Number of Respondents: 250.

Estimated Time per Respondent: 17 hours 31 min.

Estimated Total Annual Burden Hours: 4,380.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–27606 Filed 12–19–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Declarations and Authorizations for Electronic Filing

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before January 19, 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: Declarations and Authorizations for Electronic Filing.

OMB Number: 1545–0967.

Form Number: 8453–EMP, 8453–FE, 8453–WH, 8879–EMP, 8879–F, and 8879–WH.

Abstract: The IRS is actively engaged in encouraging e-filing and electronic documentation. The Form 8453 series is used to authenticate the electronically filed tax return, authorize the electronic return originator (ERO) or intermediate service provider (ISP) to transmit the return, and provide the taxpayer's consent to authorize electronic funds withdrawal for payment of taxes owed. Form 8453–FE is used to electronically file Form 1041, U.S. Income Tax Return for Estates and Trusts. Form 8453–EMP is used to electronically file an employment tax return on Forms 940 series, 941 series, 943 series, 944, and 945. Form 8453–WH is used to electronically file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. The Form 8879 series is used authorize the taxpayer and ERO to sign the return using a personal identification number (PIN) and consent to an electronic funds withdrawal. Form 8879–F is used to electronically file Form 1041, U.S. Income Tax Return for Estates and Trusts. Form 8879–EMP is used to electronically file an employment tax return on Forms 940 series, 941 series, 943 series, 944, and 945. Form 8879–WH is used to electronically file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

Current Actions: There is a change to the existing collection. Forms 8453–WH and 8879–WH were developed to enable electronic filing of Form 1042.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 21,103,781.

Estimated Time per Respondent: 2.56 hours.

Estimated Total Annual Burden Hours: 54,018,359.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–27601 Filed 12–19–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review;

Comment Request; U.S. Business Income Tax Returns

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

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. Business Income Tax Returns.

DATES: Comments should be received on or before January 19, 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. Business Income Tax Returns.

OMB Control Number: 1545–0123.

*Form Numbers:*1065, 1066, 1120, 1120–C, 1120–F, 1120–FSC, 1120–H, 1120–L, 1120–ND, 1120–PC, 1120–POL,

1120–REIT, 1120–RIC, 1120–S, 1120–SF and related attachments.

Abstract: These forms are used by businesses to report their income tax liability.

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.

Type of Review: Revision of currently approved collections.

Affected Public: Corporations and Pass-Through Entities.

Estimated Number of Respondents: 12,500,000.

Total Estimated Time: 952,000,000 hours.

Estimated Time per Respondent: 76 hours.

Total Estimated Out-of-Pocket Costs: $59,487,000,000.

Total Monetized Burden: $112,223,000,000.

FISCAL YEAR (FY) 2023 BURDEN TOTAL ESTIMATES FOR FORM 1120 AND 1065 SERIES AND ASSOCIATED FORMS, SCHEDULES, AND REGULATIONS FY2023

	FY22	Program change due to adjustment	Program change due to new legislation	Program change due to agency	FY23
Number of Taxpayers	12,300,000	200,000	0	0	12,500,000
Burden in Hours	1,138,000,000	(186,000,000)	0	0	952,000,000
Burden in Monetized Hours	55,915,000,000	(3,179,000,000)	.....	.....	52,736,000,000
Out-of-Pocket Costs	$48,303,000,000	$11,184,000,000	0	0	$59,487,000,000
Total Monetized Burden*	$104,218,000,000	$8,005,000,000	0	0	$112,223,000,000

* Total monetized burden = Monetized hours + Out-of-pocket costs.

TABLE 1—TAXPAYER BURDEN FOR ENTITIES TAXED AS PARTNERSHIPS

Primary form filed or type of taxpayer	Total number of returns (in millions)	Average time (hrs.)	Average out-of-pocket cost	Average monetized burden
All partnerships	4.9	70	$4,700	$8,500
Small	4.6	60	3,100	5,400
Large*	0.3	225	26,700	52,200
Forms 1065, 1066, and all attachments				

TABLE 2—TAXPAYER BURDEN FOR ENTITIES TAXED AS TAXABLE CORPORATIONS

Primary form filed or type of taxpayer	Total number of returns (in millions)	Average time (hrs.)	Average out-of-pocket cost	Average monetized burden
All Taxable Corporations	2.1	110	$7,200	$15,100
Small	2.0	65	3,600	6,400
Large*	0.1	770	61,700	148,500
Forms 1120, 1120–C, 1120–F, 1120–H, 1120–ND, 1120–SF, 1120–FSC, 1120–L, 1120–PC, 1120–POL and all attachments				

TABLE 3—TAXPAYER BURDEN FOR ENTITIES TAXED AS PASS-THROUGH CORPORATIONS

Primary form filed or type of taxpayer	Total number of returns (in millions)	Average time (hrs.)	Average out-of-pocket cost	Average monetized burden
All Pass-through Corporations	5.4	70	$3,900	$7,100
Small	5.3	65	3,500	6,200
Large*	0.1	320	34,900	70,800
Forms 1120–REIT, 1120–RIC, 1120–S and all attachments				

* A large business is defined as one having end-of-year assets greater than $10 million. Total filers counts may not equal the burden total estimates table due to rounding.

FY2023

Total positive income	Average time (hrs.)	Average out-of-pocket costs	Average monetized burden
Table 1A—Taxpayer Burden for Taxable Corporations on Form 1120			
1. <100k	55	1,569	2,547
2. 100k to 1mil	76	4,540	7,688
3. 1mil to 10mil	118	12,676	25,162

FY2023—Continued

Total positive income	Average time (hrs.)	Average out-of-pocket costs	Average monetized burden
4. 10mil to 100mil	491	52,315	107,655
5. >100mil	4,377	267,506	761,004
Table 2A—Taxpayer Burden for Pass-Through Corporations on Form 1120S			
1. <100k	58	1,452	2,309
2. 100k to 1mil	66	3,593	6,062
3. 1mil to 10mil	88	9,093	18,128
4. 10mil to 100mil	319	34,954	70,796
5. >100mil	1,385	147,205	302,504
Table 3A—Taxpayer Burden for Partnerships on Form 1065			
1. < 100k	52	1,633	2,683
2. 100k to 1mil	65	4,617	8,014
3. 1mil to 10mil	109	12,993	24,824
4. 10mil to 100mil	400	48,022	92,986
5. > 100mil	1,787	194,559	395,062

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–27628 Filed 12–19–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee January 24, 2023, Public Meeting

ACTION: Notice of meeting.

SUMMARY: The United States Mint announces the Citizens Coinage Advisory Committee (CCAC) teleconference public meeting scheduled for January 24, 2023.

DATES: January 24, 2023 from 1 p.m. to 3 p.m. (ET).

ADDRESSES: This meeting will occur via teleconference. Interested members of the public may dial in to listen to the meeting at (888) 330–1716. Access Code: 1137147.

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202–354–7208.

SUPPLEMENTARY INFORMATION: *Subject:* Swearing in of new member John Saunders; review and discussion of candidate designs for the Harlem Hellfighters Congressional Gold Medal.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and access information.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

For members of the public interested in listening in to the provided call number, this is a reminder that the public attendance is for listening purposes only. Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by email to *info@ccac.gov.*

For Accommodation Request: If you need an accommodation to listen to the CCAC meeting, please contact the Diversity Management and Civil Rights Office by January 18, 2023, at 202–354–7260 or 1–888–646–8369 (TYY).

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2022–27489 Filed 12–19–22; 8:45 am]

BILLING CODE 4810–37–P

FEDERAL REGISTER

Vol. 87 Tuesday,

No. 243 December 20, 2022

Part II

The President

Memorandum of December 15, 2022—Certifications Regarding Disclosure of Information in Certain Records Related to the Assassination of President John F. Kennedy

Federal Register
Vol. 87, No. 243
Tuesday, December 20, 2022

Presidential Documents

Title 3—

The President

Memorandum of December 15, 2022

Certifications Regarding Disclosure of Information in Certain Records Related to the Assassination of President John F. Kennedy

Memorandum for the Heads of Executive Departments and Agencies

Section 1. *Policy.* As set forth in the Presidential Memorandum of October 22, 2021 (Temporary Certification Regarding Disclosure of Information in Certain Records Related to the Assassination of President John F. Kennedy) (2021 Memorandum), in the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) (the ''Act''), the Congress declared that ''all Government records concerning the assassination of President John F. Kennedy . . . should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.'' The Congress also found that ''most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.'' In the 30 years since the Act became law, the profound national tragedy of President Kennedy's assassination continues to resonate in American history and in the memories of so many Americans who were alive on that terrible day; meanwhile, the need to protect records concerning the assassination has weakened with the passage of time. It is therefore critical to ensure that the United States Government maximizes transparency by disclosing all information in records concerning the assassination, except when the strongest possible reasons counsel otherwise.

Sec. 2. *Background.* (a) The Act permits the continued postponement of disclosure of information in records concerning President Kennedy's assassination only when postponement remains necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. Since 2018, executive departments and agencies (agencies) have been reviewing under this statutory standard each redaction they have proposed that would result in the continued postponement of full public disclosure, with the National Archives and Records Administration (NARA) reviewing whether it agrees that each redaction continues to meet the statutory standard. In my 2021 Memorandum, the Archivist of the United States (Archivist) explained that the COVID–19 pandemic had a significant impact on the ability of agencies, including NARA, to conduct this review and comprehensive engagement, and the Archivist recommended that I temporarily certify the records for continued postponement for a limited period. In the 2021 Memorandum, I directed the completion of an intensive 1-year review of each remaining proposed redaction to ensure that the United States Government maximizes transparency by disclosing all information in records related to the assassination, except in cases when the strongest possible reasons counsel otherwise.

(b) Pursuant to my direction, agencies have undertaken a comprehensive effort to review the full set of almost 16,000 records that had previously been released in redacted form and determined that more than 70 percent of those records may now be released in full. This significant disclosure reflects my Administration's commitment to transparency and will provide the American public with greater insight and understanding of the Government's investigation into this tragic event in American history.

(c) In the course of their review, agencies have identified a limited number of records containing information for continued postponement of public disclosure. NARA has reviewed these proposed redactions and has coordinated with relevant consulting agencies, where appropriate, to ensure that the proposed redactions meet the statutory standard for continued postponement. The Acting Archivist has recommended certifying a small subset of the reviewed records for continued postponement of public disclosure.

(d) The Acting Archivist has further indicated that additional work remains to be done with respect to a limited number of other reviewed records that were the subject of agency proposals for continued postponement of public disclosure. The Acting Archivist believes such additional work could further reduce the amount of redacted information. The Acting Archivist therefore recommends that I temporarily certify the continued postponement of public disclosure of the redacted information in these records to provide additional time for review and to ensure that information from these records is disclosed to the maximum extent possible, consistent with the standards of the Act.

Sec. 3. *Certification.* In light of the proposals from agencies for continued postponement of public disclosure of information in the records identified in section 2(c) of this memorandum under the statutory standard, and the Acting Archivist's recommendation, I agree that continued postponement of public disclosure of such information is warranted to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5(g)(2)(D) of the Act, I hereby certify that continued postponement of public disclosure of these records is necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. All information within these records that agencies have proposed for continued postponement under section 5(g)(2)(D) of the Act shall accordingly be withheld from public disclosure. Further release of the information in these records shall occur in a manner consistent with the Transparency Plans described in section 7 of this memorandum.

Sec. 4. *Temporary Certification.* In light of the proposals from agencies for continued postponement of public disclosure of information in the records identified in section 2(d) of this memorandum under the statutory standard, the Acting Archivist's request for an extension of time to continue review of those records, and the need for an appropriately thorough review process, I agree with the Acting Archivist's recommendation regarding temporary postponement. Temporary continued postponement of public disclosure of such information is necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5(g)(2)(D) of the Act, I hereby certify that all information within these records that agencies have proposed for continued postponement under section 5(g)(2)(D) of the Act shall be withheld from public disclosure until June 30, 2023.

Sec. 5. *Release.* Any information currently withheld from public disclosure that agencies have not proposed for continued postponement shall be released to the public by December 15, 2022.

Sec. 6. *Review.* (a) From the date of this memorandum until May 1, 2023, relevant agencies and NARA shall jointly review the remaining redactions in the records addressed in sections 2(d) and 4 of this memorandum with a view to maximizing transparency and disclosing all information in records concerning the assassination, except when the strongest possible reasons

counsel otherwise. Any information that agencies propose for continued postponement of public release beyond June 30, 2023, shall be limited to the absolute minimum under the statutory standard. Agencies shall not propose to continue redacting information unless the redaction is necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. In applying the statutory standard, agencies shall:

(i) accord substantial weight to the public interest in transparency and full disclosure of any record that falls within the scope of the Act; and

(ii) give due consideration that some degree of harm is not grounds for continued postponement unless the degree of harm is of such gravity that it outweighs the public interest in disclosure.

(b) If, by no later than May 1, 2023, NARA agrees that a proposed redaction meets the statutory standard for continued postponement, the Archivist shall recommend to the President, no later than May 1, 2023, that continued postponement of public disclosure of the information is warranted after June 30, 2023.

(c) If, by no later than May 1, 2023, NARA does not recommend that a proposed redaction meets the statutory standard for continued postponement, agencies shall, no later than May 15, 2023:

(i) withdraw the proposed redaction; or

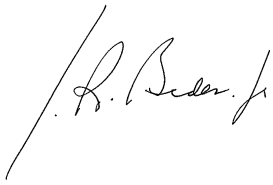
(ii) recommend to the President, through the Counsel to the President, on a document-by-document basis, that release of the information continue to be postponed, providing an explanation for each proposed redaction of why continued postponement remains necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure.

(d) In the development of the recommendations described in this section, as questions arise about particular proposed redactions, NARA shall consult, as appropriate, with relevant agencies as described in section 5(d) of my 2021 Memorandum.

(e) At the conclusion of the review described in this section, any information withheld from public disclosure that agencies do not propose for continued postponement beyond June 30, 2023, shall be released to the public by that date.

Sec. 7. *Transparency Plans.* As part of their review, each agency prepared a plan for the eventual release of information (Transparency Plan) to ensure that information would continue to be disclosed over time as the identified harm associated with release of the information dissipates. Each Transparency Plan details the event-based or circumstance-based conditions that will trigger the public disclosure of currently postponed information by the National Declassification Center (NDC) at NARA. These Transparency Plans have been reviewed by NARA, and the Acting Archivist has advised that use of the Transparency Plans by the NDC will ensure appropriate continued release of information covered by the Act. Accordingly, I direct that the Transparency Plans submitted by agencies be used by the NDC to conduct future reviews of any information that has been postponed from public disclosure, including information in the records described in sections 2(c) and 3 of this memorandum.

Sec. 8. *Publication.* The Acting Archivist is hereby authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, December 15, 2022

[FR Doc. 2022–27812
Filed 12–19–22; 11:15 am]
Billing code 3395–F3–P

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H.R. 228/P.L. 117–230
To designate the facility of the United States Postal Service located at 2141 Ferry Street in Anderson, California, as the ''Norma Comnick Post Office Building''. (Dec. 19, 2022; 136 Stat. 2317)

H.R. 700/P.L. 117–231
To designate the facility of the United States Postal Service located at 303 East Mississippi Avenue in Elwood, Illinois, as the ''Lawrence M. 'Larry' Walsh Sr. Post Office''. (Dec. 19, 2022; 136 Stat. 2318)

H.R. 3175/P.L. 117–232
To designate the facility of the United States Postal Service located at 135 Main Street in Biloxi, Mississippi, as the ''Robert S. McKeithen Post Office Building''. (Dec. 19, 2022; 136 Stat. 2319)

H.R. 5481/P.L. 117–233
To name the Department of Veterans Affairs community-based outpatient clinic in Forest City, North Carolina, as the ''Master Sergeant Jerry K. Crump VA Clinic''. (Dec. 19, 2022; 136 Stat. 2320)

H.R. 6614/P.L. 117–234
To designate the facility of the United States Postal Service located at 4744 Grand River Avenue in Detroit, Michigan, as the ''Rosa Louise McCauley Parks Post Office Building''. (Dec. 19, 2022; 136 Stat. 2321)

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