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

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DEPARTMENT OF ENERGY

10 CFR Part 810

RIN 1994–AA05

Assistance to Foreign Atomic Energy Activities

AGENCY: National Nuclear Security Administration (NNSA), Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: DOE issues procedures for the imposition of civil penalties for violations of the provisions of the Atomic Energy Act of 1954 (AEA) that restrict participation by U.S. persons in the development or production of special nuclear material outside of the United States. This final rule provides procedures to implement a statutory amendment contained within the *John S. McCain National Defense Authorization Act for Fiscal Year 2019.*

DATES: This rule is effective February 13, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Katie Strangis, Senior Policy Advisor, Office of Nonproliferation and Arms Control (NPAC), National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586–8623 or email: *Katie.Strangis@nnsa.doe.gov;* Mr. Thomas Reilly, Office of the General Counsel, GC–54, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586–3417; or Mr. Zachary Stern, Office of the General Counsel, National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586–8627.

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I. Background

DOE's 10 CFR part 810 regulation (part 810) implements section 57 b.(2) of the AEA (42 U.S.C. 2077), as amended. Part 810 controls the export of unclassified nuclear technology and assistance. It enables peaceful nuclear trade by helping to ensure that nuclear technologies exported from the United States will not be used for non-peaceful purposes. Part 810 controls the export of nuclear technology and assistance by identifying some activities as ''generally authorized'' by the Secretary of Energy (Secretary), thereby requiring no further authorization under part 810 by DOE prior to engaging in such activities. For activities and/or destinations that are not generally authorized, part 810 requires a ''specific authorization'' by the Secretary. Part 810 also details a process to apply for specific authorization from the Secretary and specifies the reporting requirements for generally and specifically authorized activities subject to part 810. Violations of section 57 b. of the AEA and part 810 may result in revocation, suspension, or modification of authorizations, pursuant to 10 CFR 810.10, as well as criminal penalties, pursuant to 10 CFR 810.15.

Section 3116(b) of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019* (NDAA), Public Law 115–232, amended section 234 a. of the AEA (42 U.S.C. 2282(a)) to clarify DOE's authority to impose civil penalties for violations of section 57 b. of the AEA, as implemented under part 810. On October 3, 2019, DOE published a notice of proposed rulemaking (NOPR) to update part 810 to include new procedures to implement this authority. (84 FR 52819) On November 4, 2019, DOE published a notice extending the deadline for public comments from November 4, 2019 to December 4, 2019. (84 FR 59315). DOE is issuing the final rule.

II. Description of Changes in the Final Rule

In response to comments from the public, the final rule reflects a revision of § 810.15 (c)(12) to clarify the burdens of proof that apply in hearings conducted pursuant to § 810.15(c)(6). The NOPR stated in § 810.15(c)(12) that ''[t]he person requesting the hearing has the burden of going forward and of demonstrating that the decision to impose the civil penalty is not supported by substantial evidence.'' This section is revised and clarified in the final rule to state that ''DOE shall have the burden of proving the violation(s) as set forth in the final notice of violation by a preponderance of the evidence. The person to whom the notice of violation is addressed shall have the burden of proving any affirmative defense by a preponderance of the evidence. The amount of the penalty associated with any violation which is upheld shall be adopted by the Administrative Judge unless not supported by the facts.''

In response to public comments concerning the approach to adjusting civil monetary penalties for inflation, DOE also revised § 810.15(c) to update the maximum penalty amount from the amount that would have been applicable when the NOPR was published, *i.e.,* $102,522, to the amount applicable currently, *i.e.,* $112,131. This maximum penalty amount reflects the current civil penalty amount adjusted from the original statutory penalty as required to be adjusted annually by the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, 129 Stat. 599, codified at 28 U.S.C. 2461 note. Under the 2015 Act, DOE issues annual inflation adjustments to all of its civil monetary penalties by rule published in the **Federal Register**. The final rule is revised to clarify this point.

The final rule also makes a minor change to § 810.15(c)(5) to state that the Deputy Administrator for Defense Nuclear Nonproliferation ''will'' issue a final notice of violation rather than ''may'', as was stated in the proposed rule.

The final rule contains no other changes to the NOPR published on October 3, 2019.

III. Discussion of Public Comments and the Final Rule

A. Comments Received

On October 3, 2019, DOE published the NOPR. On November 4, 2019, DOE

published a notice extending the deadline for public comments from November 4, 2019 to December 4, 2019. DOE received 16 comments from 16 entities in response to the October 3, 2019 NOPR, including one comment that was postmarked after the deadline and was not considered. DOE additionally received one request for extension from the Nuclear Energy Institute (NEI), which was granted.

NEI provided a comprehensive set of comments, and these comments were endorsed by eight other commenters: Exelon Generation Company (Exelon), Duke Energy Corporation (Duke), STARS Alliance (STARS), the Ad Hoc Suppliers Group (AHSG), the Ad Hoc Utility Group (AHUG), Precision Custom Components, LLC (PCC), Holtec International Corporation (Holtec), and BWX Technologies, Inc. (BWXT).

The following six entities also provided timely comments before the deadline: Florida Power and Light Company (''FPL,'' on behalf of itself and on behalf of its affiliates, NextEra Energy Seabrook, LLC, NextEra Energy Duane Arnold, LLC, and NextEra Energy Point Beach, LLC); Morgan, Lewis & Bockius LLP (Morgan Lewis); Miles & Stockbridge P.C.; a group of students from Rutgers Law School; Aaron Ahern; and one anonymous commenter. One comment, postmarked after the deadline, was not considered in the rulemaking and is not otherwise referenced in the Discussion of Public Comments.

The 15 comments considered fell into one of four categories: communications between DOE and alleged violators, penalty amounts and limitations, hearings, and other comments.

B. Communications Between DOE and Alleged Violators

1. Clarifications on Voluntary Self-Disclosure (VSD)

NEI, BWXT, Duke, Exelon, Holtec, Miles & Stockbridge, PCC, STARS, and the Rutgers law students requested clarifications from DOE on voluntary self-disclosure procedures and policy, including the specific types of information that should be included in a VSD and the mitigating impact of VSDs on civil penalties. Commenters stated that this type of information would help incentivize self-disclosures, improving the effectiveness and efficiency of the part 810 enforcement program.

DOE has provided information related to VSDs in guidance documents. DOE guidance regarding self-disclosures of violations of part 810 is set forth on the part 810 website (*https://www.energy.gov/nnsa/10-cfr-part-810*), under ''Part 810 Frequently Asked Questions,'' and was referenced in the NOPR. Persons with questions on VSDs can also submit a request for advice or a request for determination to DOE pursuant to § 810.5. Based on the comments received, DOE will consider issuing additional guidance on self-disclosures, but DOE has determined that these comments do not require changes to the rule itself.

2. Alternative Dispute Resolution, Pre-Decisional Enforcement Conferences, and Settlement Agreements

AHUG, NEI, Exelon, STARS, AHSG, PCC, Holtec, BWXT, Duke, and Morgan Lewis expressed concern that the proposed civil penalties procedures did not provide for alternative dispute resolution (ADR), pre-decisional enforcement conferences (PEC), or settlement outside the formal procedures set forth in § 810.15(c). Commenters stated that ADR and PECs would offer collaborative resolution for violations of part 810, reducing the need for the civil penalties process which may be expensive, time-consuming, and contentious. Commenters also suggested that DOE recognize the possibility of entering into a settlement agreement prior to or during formal adjudication.

DOE agrees that ADR and PEC are potentially useful tools in compliance and enforcement. The final rule describes the process for DOE to impose civil penalties where warranted, but the rule would not prevent DOE from making use of PEC in advance of issuing a notice of violation. Similarly, the rule would not prevent DOE from making use of ADR instead of issuing a notice of violation, nor would it prevent DOE from reaching settlement agreements with an alleged violator at any point in the enforcement process. Accordingly, DOE will consider making use of ADR, PEC, and settlement agreements where appropriate in implementing this rule, but the comments do not require changes to the text of the rule itself.

3. ''No Action'', ''Warning,'' ''Zero Penalty'', or ''Closeout'' Notices.

AHUG, NEI, Exelon, STARS, AHSG, PCC, Holtec, BWXT, and Morgan Lewis asked that DOE state explicitly that possible outcomes of part 810 enforcement actions include not just civil penalties, but also ''no action,'' ''warning,'' ''zero penalty,'' or ''closeout'' notices. The commenters observed that the use of such notices would incentivize companies to self-report violations and would provide DOE with the flexibility to address violations without penalties where warranted.

DOE agrees that such notices are potentially useful tools in compliance and enforcement. The final rule describes the process for DOE to impose civil penalties where warranted and does not prevent DOE from issuing ''no action,'' ''warning,'' ''zero penalty,'' or ''closeout'' notices instead of a notice of violation, where appropriate. Accordingly, DOE will consider making use of such notices where appropriate in implementing this rule, but the comments do not require changes to the text of the rule itself.

4. Explanation of the Amount of a Proposed Civil Penalty

NEI commented that § 810.15(c)(5) should be amended to include a requirement that the Deputy Administrator for Defense Nuclear Nonproliferation specify in a final notice of violation how the factors enumerated at § 810.15(c)(5)(i) through (viii) support the amount of the civil penalty. The commenter stated that this change is necessary for the alleged violator to have a meaningful opportunity to appeal the final notice.

The regulation has been updated to clarify that each notice of violation and final notice of violation will include an explanation of how the factors at § 810.15(c)(5) were considered. The person to whom the notice of violation is addressed may contest any factual allegations underlying that analysis at a hearing held pursuant to § 810.15(c)(6). However, the hearing is to contest the allegations in the final notice of violation and does not extend to the discretionary determination regarding the amount of the civil penalty based on those allegations. With regard to that discretionary determination, application of the factors in § 810.15(c)(5) involves the exercise of policy-informed judgment, which is the province of DOE officials, not of the Administrative Judge. Thus, if the Administrative Judge concludes that a violation has occurred, the Administrative Judge will not amend the applicable penalty for that violation unless it is not supported by the facts, in which event the Administrative Judge will include such information in the Administrative Judge's recommended decision to the Under Secretary.

C. Penalty Amounts and Limitations

1. Clarification on ''Continuing Violations''

AHUG, NEI, Exelon, Duke, FPL/NextEra, STARS, AHSG, PCC, Holtec, BWXT, and Morgan Lewis requested

clarification on what constitutes a ''continuing violation.'' For example, NEI asked whether an unauthorized export of Part 810-controlled information through a single email to a foreign entity would constitute a single violation, or a continuing violation for each day that the foreign entity subsequently held or processed the data. Some commenters requested revisions to the rule in this regard, while other commenters merely requested clarification from DOE on the issue. For example, FPL/Next Era suggested ''that NNSA publish guidance to outline in advance the factors that will govern its decision making'' with regards to the issue of continuing violations.

In the NOPR, § 810.15(c) stated that, ''[i]f any violation is a continuing one, each day from the point at which the violating activity began to the point at which the violating activity was suspended shall constitute a separate violation for the purpose of computing the applicable civil penalty.'' In this case, ''violating activity'' refers to an action by a person that violates section 57 b. of the AEA. In the example cited in the comment from NEI the person committed a single violation on the day that they sent the email, and the maximum penalty in this case would be $100,000, as adjusted for inflation. By contrast, a U.S. company that granted a foreign national access for five successive days to a facility wherein the foreign national had access to part 810-controlled information without the required specific authorization from DOE would have committed a continuing violation.

DOE acknowledges that examples of this kind provide clarity to the regulated community as to how DOE intends to implement this final rule. However, DOE has determined that it would not be appropriate to modify the text of the rule itself to include such examples. Instead, DOE has provided clarifying guidance through this preamble statement, and DOE will consider providing additional information in a future guidance document describing the agency's implementation of this rule.

Some commenters also recommended that, when continuing violations do occur, DOE should only apply its authority to impose a separate penalty for each day of the violation for especially severe violations, that the application of daily penalties should be otherwise limited to certain circumstances, or that DOE should refrain from imposing daily penalties altogether.

DOE notes its authority under section 234 of the AEA to impose civil penalties for each day of a continuing violation is not limited to violations of any particular type or severity. However, when continuing violations are identified, DOE will not mechanistically apply daily penalties, but rather will use the factors described in § 810.15(c)(5) to determine an appropriate penalty that may be equal to or less than the maximum.

2. Detailed Determination Criteria for Penalty Levels

AHUG, AHSG, NEI, FPL/NextEra, Morgan Lewis, and STARS commented that DOE should provide more detailed criteria for determining the amount of a monetary civil penalty, including mitigating and aggravating factors. Some commenters cited specific factors that should have a mitigating impact on penalties, such as corrective actions and self-disclosure. AHUG and AHSG also requested that the rule be revised to state that DOE will not exercise its civil penalty authority until the agency has provided more guidance on penalty determination criteria.

DOE recognizes that effective regulation sometimes involves issuance of guidance documents that explain how the agency will implement the rule. In this case, some commenters requested that more detailed penalty determination criteria be added to the rule itself, while other commenters requested that the information be provided in separate guidance.

After due consideration of these comments, DOE has decided not to add more detailed penalty calculation criteria to the rule itself, beyond the eight factors already listed at § 810.15(c)(5)(i) through (viii). Adopting a mechanistic formula for calculating civil penalties within the rule itself would make it extremely difficult for DOE to ensure that penalty amounts are appropriate in each case and could result in excessive penalty amounts in many cases.

In response to these comments, DOE may develop and issue subsequent guidance that provides additional detail on how DOE will implement § 810.15(c)(5)(i) through (viii) for the calculation of civil penalties, based on due consideration of the commenters' suggestions and experience in implementing the rule. However, given the level of detail that is already included in this rule, DOE will not delay the implementation of its legal and regulatory enforcement authority pending completion of the guidance document that the commenters requested.

3. Limiting Penalties to Certain Types of Violations

AHUG, AHSG, Duke, and FPL/NextEra commented that civil penalties should only be applied in the case of willful violations, or that other types of violations should be exempted from civil penalties, such as violations that occur within a certain ''grace period'' after the effective date of this rule, violations related to the unauthorized transfers of technology related to light-water nuclear reactors, actions committed by individual employees of a company in violation of policies and procedures, or violations that do not constitute a ''clear unauthorized transfer of technology.''

Willful violations of the statute are subject to criminal enforcement under section 222 of the AEA. Pursuant to section 234 of the AEA, any person who violates any provision of section 57 of the AEA shall be subject to a civil penalty. This provision of law establishes strict liability and does not require that violations be willful. DOE cannot change the statutory standard of culpability by rule exempting inadvertent violators, nor would the Department seek to do so, given that a negligent violation of part 810 can be as damaging to national security as a willful violation. Similarly, DOE cannot categorically exempt any other category of violation from such penalties. As such, DOE will not revise the rule in response to this comment. However, pursuant to § 810.15(c)(5), DOE will consider the degree of culpability and the gravity of the violation, among other factors, in determining the amount of the civil penalty to be imposed.

4. Statute of Limitations for Part 810 Civil Penalties

AHUG and AHSG recommended that DOE's enforcement policy or procedures specify that there is a 5-year statute of limitations for violations subject to civil penalties, pursuant to 28 U.S.C. 2462. DOE agrees that its authority to impose civil penalties is subject to this limitation and will consider including this information in a subsequent guidance document. However, this comment does not require changes to the text of the rule, because the statute of limitations applies.

5. Penalties for Violations Occurring Prior to Adoption of the Rule

NEI, STARS, Holtec, BWXT, PCC, and Morgan Lewis commented that DOE should only impose civil penalties for violations that occur after the final rule enters into force. The commenters observed that the imposition of civil

penalties retroactively is not authorized under the AEA, and in some cases they recommended that the text of the rule be changed to specify that it does not apply to violations that preceded the rule's entry into force.

As required by existing law, DOE will only impose civil penalties for violations that occur after this final rule enters into force. In the event that DOE learns of a continuing violation that began prior to this rule's effective date but continued thereafter, DOE may impose a civil penalty only for the period of the continuing violation that followed the effective date of this rule. Given that DOE does not have the legal authority to impose retroactive penalties, DOE has determined that no changes are required to the text of the rule in this regard.

6. Inflation Adjustment for the Maximum Penalty

NEI, FPL/NextEra, Holtec, STARS, PCC, BWXT, Morgan Lewis, and Miles & Stockbridge expressed concern that DOE would calculate inflation adjustments so as to make the maximum penalty $265,815, as opposed to $102,522.

The NOPR's preamble discussed alternate approaches for calculating the maximum civil penalty. However, DOE does not intend to adopt this alternate calculation method or to revise the maximum penalty listed in § 810.15(c), except to make ongoing, incremental adjustments for inflation on an annual basis in accordance with OMB guidance.

DOE updated § 810.15(c) to reflect the maximum civil penalty amount of $112,131 (*See* 87 FR 1061). This amount was calculated using a formula established in the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 by which all Federal agencies undertake an annual inflation adjustment to existing civil monetary penalties. DOE will undertake future annual adjustments to this maximum penalty amount under that 2015 Act. All future annual adjustments will be made by rule and published in the **Federal Register**. DOE also updated § 810.15(c) to clarify this point.

7. Effective Date of Rule

Duke, Holtec, and Exelon commented that this rule should not become effective until six months after publication to allow time for companies to adjust to and understand the rule. DOE has reviewed this comment and notes that this final rule establishes procedures for imposing monetary civil penalties for violations of Part 810, but the rule does not alter persons' long-standing obligation to comply with the regulation itself. As such, DOE has determined that it is reasonable and appropriate for this rule to become effective 30 days after its publication.

D. Hearings

1. Burden of Proof

NEI, AHUG, AHSG, Exelon, Duke, STARS, PCC, Holtec, BWXT, Morgan Lewis, and Miles & Stockbridge commented that, with regards to hearings conducted pursuant to § 810.15(c)(6), the text of the proposed rule did not expressly place the burden of proof on DOE, the proponent of the civil penalty, as required by the Administrative Procedure Act (APA).

The NOPR stated in § 810.15(c)(12) that ''[t]he person requesting the hearing has the burden of going forward and of demonstrating that the decision to impose the civil penalty is not supported by substantial evidence.'' In response to the comments received, DOE has revised this section in the final rule to state the following: ''DOE shall have the burden of proving the violation(s) as set forth in the final notice of violation by a preponderance of the evidence. The person to whom the notice of violation is addressed shall have the burden of proving any affirmative defense by a preponderance of the evidence. The amount of the penalty associated with any violation which is upheld shall be adopted by the Administrative Judge unless not supported by the facts.'' This change addresses the concerns raised by the commenters regarding burden of proof.

2. Role of the Under Secretary

NEI, Exelon, BWXT, STARS, PCC, and Holtec expressed concern that, after a hearing has been conducted and the Administrative Judge has forwarded their recommended decision to the Under Secretary, the Under Secretary might impose a steeper monetary penalty than that imposed by the Administrative Judge, find a violation when the Administrative Judge did not, or otherwise impose a harsher punishment than the Administrative Judge imposed. The text of the proposed rule at § 810.15(c)(14) would expressly give the Under Secretary the power to compromise, mitigate, or remit the recommended penalty of the Administrative Judge, but does not give the Under Secretary the authority to increase the penalty. Given that the text comports with the comments, DOE has determined that no change to the text in the final rule is required.

3. Appeal Sep Between the Recommended and Ultimate Decisions

Rutgers Law School students commented that the proposed rule should be revised to create an additional appellate review step between the Administrative Judge's decision and the final decision by the Under Secretary. The commenters argue that a different DOE regulation includes such an intermediate step, and that use of an intermediate appellate step in the part 810 civil penalties process could decrease the number of legal challenges to DOE penalty decisions and increase DOE's chances of success in court when challenged. Additionally, AHUG and AHSG commented that DOE should designate the Under Secretary to hear appeals of the Administrative Judge's decision, which would constitute an additional appeal step beyond the process described in this rule.

DOE has reviewed the comments and determined that it has developed a robust administrative process for adjudicating appeals of its civil penalty determinations, notwithstanding the potential use of such intermediate steps in any other DOE regulatory process. As such, DOE has determined that an additional appellate step is not necessary in this case, because the rule already includes two separate opportunities for individuals to appeal or otherwise contest an alleged violation, pursuant to § 810.15(c)(2) and (6). The rule also includes a third opportunity for penalties to be mitigated through the Under Secretary's review of the Administrative Judge's decision under § 810.15(c)(14). Accordingly, DOE has determined that no change to the rule is required in this case.

4. Conducting Hearings Prior to the Imposition of Civil Penalties

AHUG and AHSG commented that DOE should provide the alleged violator with a full administrative hearing before determining that a civil penalty should be imposed. The commenters argue that such an approach is required under the APA. These observations are closely linked to the commenters' contention that the hearing process described in § 810.15(c)(12) would place the burden of proof on the alleged violator, rather than DOE. As described above, in response to the comments received from AHUG, AHSG, and others, DOE has revised § 810.15(c)(12) in this final rule to clarify the issue of the burden of proof.

In addition, DOE has concluded that, with the revision to § 810.15(c)(12) described above, the hearing process in this rule is fully consistent with the

requirements of the APA. The process described in this rule provides all persons with the option to request a hearing, but also allows alleged violators to address violations without a hearing by either paying the proposed penalty or by contesting the proposed penalty in writing. After careful consideration, the request from the commenters that a hearing take place at the beginning of the civil penalty process would unnecessarily limit the flexibility of both DOE and the alleged violator, and would increase legal costs and burdens on both sides.

5. Confidentiality of Hearings

Morgan Lewis commented that DOE should maintain its procedures as set forth in the NOPR for protecting classified information, and other information protected from public disclosure by law or regulation, during hearings. This final rule makes no changes to these provisions and therefore comports with the comment.

E. Other Comments

1. Guidance on Authority To Impose Civil Penalties for Violations of Part 810

Morgan Lewis commented that the National Defense Authorization Act for Fiscal Year of 2016 directed DOE to issue guidance with respect to the use of the clear and intended authority of the Secretary of Energy under section 234 of the Atomic Energy Act of 1954 to impose civil penalties, including fines. Morgan Lewis recommended that DOE issue such guidance ''no later than concurrently with the final rule on civil monetary penalties.'' DOE has reviewed the comment and determined that no additional guidance is required at this time. Accordingly, DOE will make no change to the text of the rule in response to this comment, and the effective date of the rule will not be delayed.

2. Clarification on the Scope of the Part 810 Regulation

Morgan Lewis, NEI, FPL/NextEra, Duke, AHSG, STARS, and an anonymous commenter stated that the scope of the part 810 regulation is ambiguous and requested that DOE clarify the regulation. In some cases, the commenters requested that DOE delay issuing a final rule on monetary civil penalties until these clarifications have been made.

These comments relate to the existing scope of the part 810 regulation, as issued as a final rule on February 23, 2015, as opposed to the NOPR at hand. Comments and suggestions outside the scope of this rulemaking regarding other aspects of the part 810 program will not be addressed here.

IV. Regulatory Review

A. Executive Order 12866

The final rule has been determined to not be a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. National Environmental Policy Act

DOE has determined that the rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A5 of appendix A to subpart D, 10 CFR part 1021, which applies to a rulemaking that amends an existing rule or regulation and that does not change the environmental effect of the rule or regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of the General Counsel's website: *https://www.energy.gov/gc/office-general-counsel.*

This rule would update 10 CFR 810.15 to include procedures for the imposition of civil penalties. DOE has reviewed the changes under the provisions of the *Regulatory Flexibility Act* and the procedures and policies published on February 19, 2003. The changes do not expand the scope of activities currently regulated under 10 CFR part 810.

DOE has conducted a review of the potential small businesses that may be impacted by this rule. This review consisted of an analysis of the number of businesses impacted generally in Fiscal Years 2016 and 2017, and a determination of which of those are considered ''small businesses'' by the Small Business Administration. Small businesses impacted by part 810 generally fall within two North American Industry Classification System codes: engineering services (541330) and computer systems designs services (541512). Often, their requests for authorization include the transfer of computer codes or other similar products. A total of 89 businesses and other entities submitted reports and applications pursuant to the regulation during this time period. DOE estimates that approximately 10% of those entities impacted by part 810 are small businesses. As such, of those 89 entities that submitted reports and applications under part 810, approximately 9 are estimated to be small businesses.

Small businesses exporting nuclear technology like all other regulated entities, would be subject to civil penalties for violations of part 810. Further, the requirements for small businesses exporting nuclear technology would not substantively change because the proposed revisions to this rule do not add new burdens or duties to small businesses. The obligations of any person subject to the jurisdiction of the United States who engages or participates directly or indirectly in the production of special nuclear material outside the United States have not changed in a manner that would provide any significant economic impact on small businesses. Because the changes to this rule would not alter the businesses' standards or processes for receiving part 810 authorization, there would be no impact on these businesses' ability to comply with part 810 in the same manner they have previously.

On the basis of the foregoing, DOE certifies that the rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

D. Paperwork Reduction Act

The collection of information requirements have been approved under OMB Control Number 1901–0263. The rule would provide procedures for imposing civil penalties for a violation

of part 810. There would be no collection of information under the rule.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For regulatory actions likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a),(b)). UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (This policy is also available at *https://energy.gov/gc/office-general-counsel.*) DOE examined this rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and tribal government, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

F. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b), Executive Order 12988 specifically requires that Federal agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met, or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

G. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this rule and has determined that it would not preempt State law and 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. No further action is required by Executive Order 13132.

H. Treasury and General Government Appropriations Act, 1999

Section 654 of the *Treasury and General Government Appropriations Act, 1999* (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. The rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant regulatory action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Congressional Review

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this rulemaking. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on December 23, 2022, by Jennifer Granholm, Secretary of Energy. That document with the original signature and date is maintained by

DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 6, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy amends part 810 of chapter III, title 10 of the Code of Federal Regulations as set forth below.

PART 810—ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

■ 1. The authority citation for part 810 is revised to read as follows:

Authority: Secs. 57, 127, 128, 129, 161, 222, 232, and 234 AEA, as amended by the *Nuclear Nonproliferation Act of 1978,* Pub. L. 95–242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2272, 2280, 2282), the *Intelligence Reform and Terrorism Prevention Act of 2004,* Pub. L. 108–458, 118 Stat. 3768, and sec. 3116 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019,* Pub. L. 115–232; Sec. 104 of the *Energy Reorganization Act of 1974,* Pub. L. 93–438; Sec. 301, *Department of Energy Organization Act,* Pub. L. 95–91; *National Nuclear Security Administration Act,* Pub. L. 106–65, 50 U.S.C. 2401 *et seq.,* as amended.

■ 2. Section 810.1 is amended by adding paragraph (d) to read as follows:

§ 810.1 Purpose.

* * * * *

(d) Specify civil penalties and enforcement proceedings.

■ 3. Section 810.15 is amended by adding paragraph (c) to read as follows:

§ 810.15 Violations.

* * * * *

(c) In accordance with section 234 of the AEA, any person who violates any provision of section 57 b. of the AEA, as implemented under this part, shall be subject to a civil penalty, not to exceed $112,131 per violation, such amount to be adjusted annually for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. If any violation is a continuing one, each day from the point at which the violating activity began to the point at which the violating activity was suspended shall constitute a separate violation for the purpose of computing the applicable civil penalty. The mere act of suspending an activity does not constitute admission that the activity was a violation and does not waive the rights and processes outlined in paragraphs (c)(4) through (14) of this section or otherwise impact the right of the person to appeal any civil penalty that may be imposed.

(1) In order to begin a proceeding to impose a civil penalty under this paragraph (c), the Deputy Administrator for Defense Nuclear Nonproliferation or his/her designee, shall notify the person by a written notice of violation sent by registered or certified mail to the last known address of such person, of:

(i) The date, facts, and nature of each act or omission with which the person is charged;

(ii) The particular provision or provisions of section 57 b. of the AEA, as implemented under this part, involved in each alleged violation;

(iii) The penalty which DOE proposes to impose, including an explanation of how the factors at paragraph (c)(5) of this section were considered;

(iv) The opportunity of the person to submit a written reply within 30 calendar days of receipt of such preliminary notice of violation showing why such penalty should not be imposed; and

(v) The possibility of collection by civil action upon failure to pay the civil penalty.

(2) A reply to the notice of violation must:

(i) State any facts, explanations, and arguments which support a denial of the alleged violation;

(ii) Demonstrate any extenuating circumstances or other reason why a proposed penalty should not be imposed or should be mitigated;

(iii) Discuss the relevant authorities which support the position asserted;

(iv) Furnish full and complete answers to any questions set forth in the notice of violation; and

(v) Include copies of all relevant documents.

(3) If a person fails to submit a written reply within 30 calendar days of receipt of a notice of violation, the notice of violation, including any penalties therein, constitutes a final decision, and payment of the full amount of the civil penalty assessed in the notice of violation is due 30 calendar days after receipt of the notice of violation. Such failure to submit a reply constitutes a waiver of the rights and processes outlined in paragraphs (c)(4) through (14) of this section.

(4) The Deputy Administrator for Defense Nuclear Nonproliferation or his/her designee, at the written request of a person notified of an alleged violation, may extend in writing, for a reasonable period, the time for submitting a reply.

(5) If a person submits a timely written reply to the notice of violation, the Deputy Administrator for Defense Nuclear Nonproliferation will make a final determination whether the person violated or is continuing to violate a requirement of section 57 b. of the AEA, as implemented under this part. Based on a determination that a person has violated or is continuing to violate a requirement of section 57 b., as implemented under this part, the Deputy Administrator for Defense Nuclear Nonproliferation will issue to that person a final notice of violation that concisely states the violation, the amount of the civil penalty imposed, including an explanation of how the factors in this paragraph were considered, further actions necessary by or available to the person, and that upon failure to timely pay the civil penalty, the penalty may be collected by civil action. The Deputy Administrator for Defense Nuclear Nonproliferation will send such a final notice of violation by registered or certified mail to the last known address of the person. The amount of the civil penalty will be based on:

(i) The nature, circumstances, extent, and gravity of the violation or violations;

(ii) The violator's ability to pay;

(iii) The effect of the civil penalty on the person's ability to do business;

(iv) Any history of prior violations;

(v) The degree of culpability;

(vi) Whether the violator self-disclosed the violation;

(vii) The economic significance of the violation; and (viii) Such other factors as justice may require.

(6) Any person who receives a final notice of violation under paragraph (c)(5) of this section may request a hearing concerning the allegations contained in the notice. The person must mail or deliver any written request for a hearing to the Under Secretary for Nuclear Security within 30 calendar days of receipt of the final notice of violation. If the person does not request a hearing within 30 calendar days, the final notice of violation, including any penalties therein, constitutes a final decision, and payment of the full amount of the civil penalty assessed in the final notice of violation is due 45 calendar days after receipt of the final notice of violation.

(7) Upon receipt from a person of a written request for a hearing, the Under Secretary for Nuclear Security or his/her designee, shall:

(i) Appoint a Hearing Counsel; and

(ii) Forward the request to the DOE Office of Hearings and Appeals (OHA). The OHA Director shall appoint an OHA Administrative Judge to preside at the hearing.

(8) The Hearing Counsel shall be an attorney employed by DOE, and shall have all powers necessary to represent DOE before the OHA.

(9) In all hearings under this paragraph (c):

(i) The parties have the right to be represented by a person of their choosing, subject to possessing an appropriate information access authorization for the subject matter. The parties are responsible for producing witnesses on their behalf, including requesting the issuance of subpoenas, if necessary;

(ii) Testimony of witnesses is given under oath or affirmation, and witnesses must be advised of the applicability of 18 U.S.C. 1001 and 18 U.S.C. 1621, dealing with the criminal penalties associated with false statements and perjury;

(iii) Witnesses are subject to cross-examination;

(iv) Formal rules of evidence do not apply, but OHA may use the Federal Rules of Evidence as a guide; and

(v) A court reporter will make a transcript of the hearing.

(vi) The Administrative Judge has all powers necessary to regulate the conduct of proceedings:

(vii) The Administrative Judge may order discovery at the request of a party, based on a showing that the requested discovery is designed to produce evidence regarding a matter, not privileged, that is relevant to the subject matter of the complaint;

(viii) The Administrative Judge may permit parties to obtain discovery by any appropriate method, including deposition upon oral examination or written questions; written interrogatories; production of documents or things; permission to enter upon land or other property for inspection and other purposes; and requests for admission;

(ix) The Administrative Judge may issue subpoenas for the appearance of witnesses on behalf of either party, or for the production of specific documents or other physical evidence;

(x) The Administrative Judge may rule on objections to the presentation of evidence; exclude evidence that is immaterial, irrelevant, or unduly repetitious; require the advance submission of documents offered as evidence; dispose of procedural requests; grant extensions of time; determine the format of the hearing; direct that written motions, documents, or briefs be filed with respect to issues raised during the course of the hearing; ask questions of witnesses; direct that documentary evidence be served upon other parties (under protective order if such evidence is deemed confidential); and otherwise regulate the conduct of the hearing;

(xi) The Administrative Judge may, at the request of a party or on his or her own initiative, dismiss a claim, defense, or party and make adverse findings upon the failure of a party or the party's representative to comply with a lawful order of the Administrative Judge, or, without good cause, to attend a hearing;

(xii) The Administrative Judge, upon request of a party, may allow the parties a reasonable time to file pre-hearing briefs or written statements with respect to material issues of fact or law. Any pre-hearing submission must be limited to the issues specified and filed within the time prescribed by the Administrative Judge;

(xiii) The parties are entitled to make oral closing arguments, but post-hearing submissions are only permitted by direction of the Administrative Judge;

(xiv) Parties allowed to file written submissions, or documentary evidence must serve copies upon the other parties within the timeframe prescribed by the Administrative Judge;

(xv) The Administrative Judge is prohibited, beginning with his or her appointment and until a final agency decision is issued, from initiating or otherwise engaging in *ex parte* (private) discussions with any party on the merits of the complaint;

(xvi) The Administrative Judge is responsible for determining the date, time, and location of the hearing, including whether the hearing will be conducted via video conference; and

(xvii) The Administrative Judge shall convene the hearing within 180 days of the OHA's receipt of the request for a hearing, unless the parties agree to an extension of this deadline by mutual written consent, or the Administrative Judge determines that extraordinary circumstances exist that require a delay.

(10) Hearings shall be open only to Hearing Counsel, duly authorized representatives of DOE, the person and the person's counsel or other representatives, and such other persons as may be authorized by the Administrative Judge. Unless otherwise ordered by the Administrative Judge, witnesses shall testify in the presence of the person but not in the presence of other witnesses.

(11) The Administrative Judge must use procedures appropriate to safeguard and prevent unauthorized disclosure of classified information or any other information protected from public disclosure by law or regulation, with minimum impairment of rights and obligations under this part. The classified or otherwise protected status of any information shall not, however, preclude its being introduced into evidence. The Administrative Judge may issue such orders as may be necessary to consider such evidence in camera including the preparation of a supplemental recommended decision to address issues of law or fact that arise out of that portion of the evidence that is classified or otherwise protected.

(12) DOE shall have the burden of proving the violation(s) as set forth in the final notice of violation by a preponderance of the evidence. The person to whom the notice of violation is addressed shall have the burden of proving any affirmative defense by a preponderance of the evidence. The amount of the penalty associated with any violation which is upheld shall be adopted by the Administrative Judge unless not supported by the facts, in which event the Administrative Judge will include such information in the Administrative Judge's recommended decisions to the Under Secretary for reconsideration of the amount of the penalty based on the Administrate Judge's resolution of the factual issues.

(13) Within 180 days of receiving a copy of the hearing transcript, or the closing of the record, whichever is later, the Administrative Judge shall issue a recommended decision. The recommended decision shall contain findings of fact and conclusions regarding all material issues of law, as well as the reasons therefor. If the Administrative Judge determines that a violation has occurred and that a civil penalty is appropriate, the recommended decision shall set forth the amount of the civil penalty based on the factors in paragraph (c)(5) of this section.

(14) The Administrative Judge shall forward the recommended decision to the Under Secretary for Nuclear Security. The Under Secretary for Nuclear Security shall make a final decision as soon as practicable after completing his/her review. This may include compromising, mitigating, or remitting the penalties in accordance with section 234 a. of the AEA, as amended. DOE shall notify the person of the Under Secretary for Nuclear Security's final decision or other action

under this paragraph in writing by certified mail, return receipt requested. The person against whom the civil penalty is assessed by the final decision shall pay the full amount of the civil penalty assessed in the final decision within 30 calendar days unless otherwise determined by the Under Secretary for Nuclear Security.

(15) If a civil penalty assessed in a final decision is not paid as provided in paragraphs(c)(3), (6), or (14) of this section, as appropriate, the Under Secretary for Nuclear Security may request the Department of Justice to initiate a civil action to collect the penalty imposed under this paragraph in accordance with section 234 c. of the AEA.

(16) The Under Secretary for Nuclear Security or his/her designee may publish redacted versions of notices of violation and final decisions.

[FR Doc. 2023–00342 Filed 1–11–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1246; Project Identifier MCAI–2022–00675–T; Amendment 39–22291; AD 2022–27–06]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. This AD was prompted by a report of uncommanded setting of the barometric reference in both primary flight displays (PFDs) due to the architecture of data communication of the Control I/O modules, which interconnect the display controllers to the air data system. This AD requires installing updated Primus EPIC software, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 16, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 16, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1246; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* website *anac.gov.br/en/.* You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2022–1246.

FOR FURTHER INFORMATION CONTACT: Hassan Ibrahim, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3653; email *Hassan.M.Ibrahim@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on October 20, 2022 (87 FR 63704). The NPRM was prompted by AD 2022–05–04, effective May 25, 2022, issued by ANAC, which is the aviation authority for Brazil (ANAC AD 2022–05–04) (referred to after this as the MCAI). The MCAI states that there was a report of uncommanded setting of the barometric reference in both PFDs due to the architecture of data communication of the Control I/O modules, which interconnect the display controllers to the air data system. The possibility of erroneous indications for both pilots, combined with possible adverse meteorological conditions could result in an increase of flightcrew workload. This condition, if not addressed, could interfere with the decisions taken by the flightcrew during critical phases of flight.

In the NPRM, the FAA proposed to require installing updated Primus EPIC software, as specified in ANAC AD 2022–05–04. The FAA is issuing this AD to address uncommanded setting of the barometric reference in both primary flight displays, which could interfere with the decisions taken by the flightcrew during critical phases of flight, and possibly result in reduced controllability of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1246.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

This AD requires ANAC AD 2022–05–04, which specifies procedures for installing updated Primus EPIC software. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 121 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
8 work-hours × $85 per hour = $680	$0	$680	$82,280

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–27–06 Embraer S.A.: Amendment 39–22291; Docket No. FAA–2022–1246; Project Identifier MCAI–2022–00675–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 16, 2023.

(b) Affected ADs

This AD affects AD 2020–05–21, Amendment 39–19871 (85 FR 15940, March 20, 2022) (AD 2020–05–21).

(c) Applicability

This AD applies to Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) AD 2022–05–04, effective May 25, 2022 (ANAC AD 2022–05–04).

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Unsafe Condition

This AD was prompted by a report of uncommanded setting of the barometric reference in both primary flight displays due to the architecture of data communication of the Control I/O modules, which interconnect the display controllers to the air data system. The FAA is issuing this AD to address this condition, which could interfere with the decisions taken by the flightcrew during critical phases of flight, and possibly result in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2022–05–04.

(h) Exceptions to ANAC AD 2022–05–04

(1) Where ANAC AD 2022–05–04 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Alternative methods of compliance (AMOC)'' section of ANAC AD 2022–05–04 does not apply to this AD.

(3) Where paragraph (d) of ANAC AD 2022–05–04 states, ''You must use the following service information for the installation of the Primus EPIC software versions 25.9, 27.4 and 27.4.0.1 as required by this AD,'' replace that text with ''You must use the following service information for the installation of the Primus EPIC software versions 25.9, 27.4 and 27.4.0.1, as applicable, except as provided in paragraphs (a)(1) through (6) of ANAC AD 2022–05–04.''

(i) Terminating Action for AD 2020–05–21

Accomplishing the actions required by this AD on an airplane terminates all requirements of AD 2020–05–21 for that airplane only.

(j) No Reporting Requirement

Although the service information referenced in ANAC AD 2022–05–04 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

For more information about this AD, contact Hassan Ibrahim, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3653; email *Hassan.M.Ibrahim@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of

the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2022–05–04, effective May 25, 2022.

(ii) [Reserved]

(3) For ANAC AD 2022–05–04, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* website *anac.gov.br/en/*. You may find this ANAC AD on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

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

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

Issued on December 21, 2022.

Christina Underwood,

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

[FR Doc. 2023–00124 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1105; Project Identifier MCAI–2020–01459–T; Amendment 39–22086; AD 2020–25–03R1]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule; removal.

SUMMARY: The FAA is removing Airworthiness Directive (AD) 2020–25–03, which applied to all Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2020–25–03 required repetitive checks of the pressure gauges to determine the amount of pressure on the inflation reservoir of each emergency escape slide/raft, and applicable corrective actions. AD 2020–25–03 also provided optional terminating action for the repetitive checks. The FAA issued AD 2020–25–03 to address insufficient reservoir pressure in an emergency escape slide/raft, which would prevent the deployment of the emergency escape slide/raft during an emergency, possibly resulting in injury to the occupants. The FAA has determined that AD 2020–25–03 is no longer necessary because the unsafe condition no longer exists. Accordingly, AD 2020–25–03 is removed.

DATES: This AD becomes effective January 12, 2023.

ADDRESSES: *AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2020–1105; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, previously issued AD 2020–0236, dated October 27, 2020 (EASA AD 2020–0236) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321 series airplanes. The FAA issued corresponding AD 2020–25–03, Amendment 39–21345 (85 FR 79415, December 10, 2020) (AD 2020–25–03), for those airplanes except for Model A319–153N and A320–215 airplanes, which are not included on the U.S. type certificate data sheet. AD 2020–25–03 required repetitive checks of the pressure gauges to determine the amount of pressure on the inflation reservoir of each emergency escape slide/raft, and applicable corrective actions. AD 2020–25–03 also provided optional terminating action for the repetitive checks. AD 2020–25–03 was prompted by a report of a loud bang heard during airplane boarding. A subsequent inspection revealed that one emergency escape slide/raft was found with zero reservoir pressure due to a burst rupture disk assembly in the inflation reservoir, which was probably caused by a manufacturing defect. The FAA issued AD 2020–25–03 to address insufficient reservoir pressure in an emergency escape slide/raft, which would prevent the deployment of the emergency escape slide/raft during an emergency, possibly resulting in injury to the occupants.

Since the FAA issued AD 2020–25–03, EASA issued AD 2020–0236–CN, dated May 16, 2022, to cancel EASA AD 2020–0236. EASA advised the FAA that SAFRAN Aerosystems, the manufacturer of the affected parts, produced service information with instructions for replacement of the rupture disk during overhaul of the affected parts. EASA reports that no rupture disk failures have occurred in service or during overhaul. Consequently, new risk analysis determined that an unsafe condition no longer exists that would warrant AD action.

Subsequently, the FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by removing AD 2020–25–03. The NPRM was published in the **Federal Register** on June 16, 2022 (87 FR 36274). The FAA is issuing this AD to remove AD 2020–25–03.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from United Airlines Engineering in support of the NPRM without change. The commenter concurred with the proposal to rescind AD 2020–25–03, noting that there have been no known reports of evacuation slide issues related to rupture disc failure while in service or during repair/overhaul. The commenter added that a visual check of the slide pressure is performed prior to each revenue flight.

Change to Project Identifier Number

The NPRM identified the project number as AD–2020–01459–T. However, the project number for this rescission is MCAI–2020–1459–T. The FAA has revised this rescission accordingly.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

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.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–25–03, Amendment 39–21345 (85 FR 79415, December 10, 2020), and

■ b. Adding the following new AD:

2020–25–03R1 Airbus SAS: Amendment 39–22086; Docket No. FAA–2020–1105; Project Identifier MCAI–2020–01459–T.

(a) Effective Date

This AD becomes effective January 12, 2023.

(b) Affected ADs

This AD replaces AD 2020–25–03, Amendment 39–21345 (85 FR 79415, December 10, 2020).

(c) Applicability

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

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

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

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

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

(d) Subject

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

(e) Related Information

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

(f) Material Incorporated by Reference

None.

Issued on January 4, 2023.

Gaetano A. Sciortino,

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

[FR Doc. 2023–00185 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1051; Project Identifier AD–2022–00089–T; Amendment 39–22257; AD 2022–25–01]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 707 and Model 727 airplanes. This AD was prompted by a report indicating cracking in fastener holes at the center wing box and at certain positions of the rear spar and lower skin on a Model 737–300 airplane. A cross model review determined that similar cracking of the fastener holes in the center wing box lower skin could occur on Model 707 and Model 727 airplanes. For Model 707 airplanes this AD requires repetitive detailed inspections of the center wing box lower skin for cracking and repetitive high frequency eddy current (HFEC) and ultrasonic (UT) inspections of the rear spar lower chord at a certain position for cracking, repetitive sealant application, and repair if necessary. For Model 727 airplanes this AD requires repetitive detailed inspections of the center wing box, lower skin, and rear spar lower chord at a certain location for cracking, repetitive sealant application, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 16, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 16, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1051; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

• For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

• You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2022–1051.

FOR FURTHER INFORMATION CONTACT: Sean Newell, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5266; email: *Sean.M.Newell@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 707 and Model 727 airplanes. The NPRM published in the **Federal Register** on September 15, 2022 (87 FR 56596). The NPRM was prompted by a report indicating cracking in fastener holes at the center wing box and at certain positions of the rear spar and lower skin on a Model 737–300 airplane. A cross model review determined that similar cracking of the fastener holes in the center wing box lower skin could occur on Model 707 and Model 727 airplanes. In the NPRM, the FAA proposed to require, for Model 707 airplanes, repetitive detailed inspections of the center wing box lower skin for cracking and repetitive HFEC and UT inspections of the rear spar lower chord at a certain position for cracking, repetitive sealant application, and repair if necessary. For Model 727 airplanes, the NPRM proposed to require repetitive detailed inspections of the center wing box, lower skin, and rear spar lower chord at a certain location for cracking, repetitive sealant application, and repair if necessary. The FAA is issuing this AD to address cracking in the center wing box lower skin or rear spar lower chord, which could result in the inability of the structure to sustain limit load and adversely affect the structural integrity of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Boeing and an individual who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021. This service information specifies procedures for repetitive internal detailed inspections of the center wing box lower skin for cracking and repetitive internal surface HFEC and UT inspections of the rear spar lower chord between left body buttock line (LBBL) 40 and right body buttock line (RBBL) 40 for cracking, repetitive sealant application, and repair.

The FAA reviewed Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021. This service information specifies procedures for repetitive internal detailed inspections for cracking of the center wing box, lower skin, and rear spar lower chord between LBBL 34.7 and RBBL 34.7, repetitive sealant application, and repair.

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

Costs of Compliance

The FAA estimates that this AD affects 48 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections and sealant application Model 707 airplanes.	34 work-hours × $85 per hour = $2,890 per inspection cycle.	$0	$2,890 per inspection cycle ...	$66,470 per inspection cycle (23 airplanes).
Inspections and sealant application Model 727 airplanes.	22 work-hours × $85 per hour = $1,870 per inspection cycle.	0	$1,870 per inspection cycle ...	$46,750 per inspection cycle (25 airplanes).

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 9 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

2022–25–01 The Boeing Company: Amendment 39–22257; Docket No. FAA–2022–1051; Project Identifier AD–2022–00089–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 16, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model 707–100 Long Body, –200, –100B Long Body, and –100B Short Body series airplanes.

(2) Model 707–300, –300B, –300C, and –400 series airplanes.

(3) Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report indicating cracking in fastener holes at the center wing box and at certain positions of the rear spar and lower skin on a Model 737–300 airplane. A cross model review determined that similar cracking of the fastener holes in the center wing box lower skin could occur on Model 707 and Model 727 airplanes. The FAA is issuing this AD to address cracking in the center wing box lower skin or rear spar lower chord, which could result in the inability of the structure to sustain limit load and adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions for Group 1 Model 727 Airplanes

For airplanes identified as Group 1 in Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Required Actions for Groups 2 and 3 Model 727 Airplanes and All Model 707 Airplanes

Except as specified by paragraph (i) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021; or Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021; as applicable, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021; or Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021, as applicable.

Note 1 to paragraph (h): Guidance for accomplishing the actions required by this AD can be found in Boeing 707 Alert Service Bulletin A3544, dated November 1, 2021, which is referred to in Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021; and Boeing Alert Service Bulletin 727–57A0190, dated September 13, 2021, which is referred to in Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021.

(i) Exceptions to Service Information Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021, uses the phrase ''the original issue date of Requirements Bulletin 707A3544 RB'' this AD requires using ''the effective date of this AD.''

(2) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021, uses the phrase ''the original issue date of Requirements Bulletin 727–57A0190 RB'' this AD requires using ''the effective date of this AD.''

(3) Where Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(4) Where Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Additional Information

(1) For more information about this AD, contact Sean Newell, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5266; email: *Sean.M.Newell@faa.gov.*

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

(l) Material Incorporated by Reference

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

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

(i) Boeing 707 Alert Requirements Bulletin A3544 RB, dated November 1, 2021.

(ii) Boeing Alert Requirements Bulletin 727–57A0190 RB, dated September 13, 2021.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA,

fr.inspection@nara.gov, or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 22, 2022.

Christina Underwood,

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

[FR Doc. 2023–00129 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0922; Airspace Docket No. 22–ASO–15]

RIN 2120–AA66

Establishment of Class D Airspace and Amendment of Class E Airspace; Selma, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace for Craig Field, Selma, AL, as a new air traffic control tower will service the airport. This action also amends Class E airspace extending upward from 700 feet above the surface by updating the radius and geographic coordinates of the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 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, contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 49783, August 12, 2022) for Docket No. FAA–2022–0922 to establish Class D airspace and amend Class E airspace extending upward from 700 feet above the surface at Craig Field Airport, Selma, AL.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by establishing Class D airspace in Selma, AL, as a new air traffic control tower will service Craig Field Airport. Also, Class E airspace extending upward from 700 feet above the surface at Craig Field Airport is amended as an airspace evaluation determined the radius required an increase to 10.2 miles (formerly 7 miles), as well as updating the airport's geographic coordinates to coincide with the FAA's database. In addition, the city name is removed from the second line of the Class E descriptor header, as per FAA Order 7400.2N.

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

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraphs 5–6.5a.

This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO AL D Selma, AL [Established]

Craig Field Airport, AL

(Lat. 32°20′38″ N, long. 86°59′16″ W)

That airspace extending upward from the surface up to and including 3,000 feet MSL, within a 4.3-mile radius of Craig Field Airport, and within 1.2 miles on each side of the 146° bearing, extending from the 4.3-mile radius to 6.3 miles southeast of the airport; and within 1-mile each side of the 326° bearing, extending from the 4.3-mile radius to 6.3 miles northwest of the airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Air Missions. The effective days and times will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO AL E5 Selma, AL [Amended]

Craig Field Airport, AL

(Lat. 32°20′38″ N, long. 86°59′16″ W)

That airspace extending upward from 700 feet above the surface within a 10.2-mile radius of Craig Field Airport.

Issued in College Park, Georgia, on January 3, 2023.

Andreese C. Davis,

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

[FR Doc. 2023–00025 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31465; Amdt. No. 4041]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 12, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 12, 2023.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff

Minimums and/or ODPs as identified in the amendatory language for Part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on December 23, 2022.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 26 January 2023

Burlington, VT, KBTV, ILS OR LOC RWY 15, Amdt 25

Effective 23 February 2023

Mobile, AL, KBFM, ILS OR LOC RWY 32, Amdt 4
Mobile, AL, KBFM, RNAV (GPS) RWY 14, Amdt 3
Mobile, AL, KBFM, RNAV (GPS) RWY 18, Amdt 3
Mobile, AL, KBFM, RNAV (GPS) RWY 32, Amdt 3
Mobile, AL, KBFM, RNAV (GPS) RWY 36, Amdt 3
Mobile, AL, KBFM, VOR RWY 14, Amdt 9
Washington, DC, KDCA, ILS OR LOC RWY 1, ILS RWY 1 (SA CAT I), ILS RWY 1 (CAT II), Amdt 41D
Atlanta, GA, KATL, RNAV (RNP) Z RWY 8L, Amdt 1A
Jackson, MI, KJXN, RNAV (GPS) RWY 14, Amdt 2
Jackson, MI, KJXN, RNAV (GPS) RWY 25, Amdt 1
Jackson, MI, KJXN, RNAV (GPS) RWY 32, Amdt 1
Mexico, MO, KMYJ, LOC RWY 24, Amdt 1E
Wilmington, NC, KILM, RADAR 1, Amdt 7A, CANCELED
Somerville, TN, KFYE, RNAV (GPS) RWY 1, Orig-D
Somerville, TN, KFYE, RNAV (GPS) RWY 19, Amdt 2D
Austin, TX, KEDC, RNAV (GPS) RWY 13, Amdt 1
Austin, TX, KEDC, RNAV (GPS) RWY 31, Amdt 2
Houston, TX, KIAH, GLS RWY 8L, Amdt 2
Houston, TX, KIAH, GLS RWY 8R, Amdt 2
Houston, TX, KIAH, GLS RWY 9, Amdt 1C
Houston, TX, KIAH, GLS RWY 26L, Amdt 2
Houston, TX, KIAH, GLS RWY 26R, Amdt 2
Houston, TX, KIAH, GLS RWY 27, Amdt 2
Land O'Lakes, WI, KLNL, RNAV (GPS) RWY 14, Amdt 1
Land O'Lakes, WI, KLNL, RNAV (GPS) RWY 32, Amdt 1

Rescinded: On December 9, 2022 (87 FR 75466), the FAA published an Amendment in Docket No. 31458, Amdt No. 4035, to Part 97 of the Federal Aviation Regulations under section 97.20, 97.23, 97.25, 97.29, 97.35, and 97.37. The following entries for, Helena, MT, effective December 29, 2022, is hereby rescinded in its entirety:

Helena, MT, KHLN, COPTER VOR 258, Orig-A
Helena, MT, KHLN, DIVIDE TWO, Graphic DP
Helena, MT, KHLN, ILS Y OR LOC Y RWY 27, Amdt 4
Helena, MT, KHLN, ILS Z OR LOC Z RWY 27, Amdt 3
Helena, MT, KHLN, LOC BC–C, Amdt 6
Helena, MT, KHLN, Takeoff Minimums and Obstacle DP, Amdt 10A
Helena, MT, KHLN, VOR–A, Amdt 16
Helena, MT, KHLN, VOR–B, Amdt 8

[FR Doc. 2022–28616 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 250 and 385

[Docket No. RM23–3–000; Order No. 886]

Civil Monetary Penalty Inflation Adjustments

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a final rule to amend its regulations governing the maximum civil monetary penalties assessable for violations of statutes, rules, and orders within the Commission's jurisdiction. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended most recently by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires the Commission to issue this final rule.

DATES: This final rule is effective January 12, 2023.

FOR FURTHER INFORMATION CONTACT: Colin Chazen, Attorney, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Phone: (202) 502–8732; email: *Colin.Chazen@ferc.gov*.

SUPPLEMENTARY INFORMATION:

1. In this final rule, the Federal Energy Regulatory Commission

(Commission) is complying with its statutory obligation to amend the civil monetary penalties provided by law for matters within the agency's jurisdiction.

I. Background

2. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Adjustment Act),[1] which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act),[2] required the head of each Federal agency to issue a rule by July 2016 adjusting for inflation each ''civil monetary penalty'' provided by law within the agency's jurisdiction and to make further inflation adjustments on an annual basis every January 15 thereafter.[3]

II. Discussion

3. The 2015 Adjustment Act defines a civil monetary penalty as any penalty, fine, or other sanction that: (A)(i) is for a specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; (B) is assessed or enforced by an agency pursuant to Federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts.[4] This definition applies to the maximum civil penalties that may be imposed under the Federal Power Act (FPA),[5] the Natural Gas Act (NGA),[6] the Natural Gas Policy Act of 1978 (NGPA),[7] and the Interstate Commerce Act (ICA).[8]

4. Under the 2015 Adjustment Act, the first step for such adjustment of a civil monetary penalty for inflation requires determining the percentage by which the U.S. Department of Labor's Consumer Price Index for all-urban consumers (CPI–U) for October of the preceding year exceeds the CPI–U for October of the year before that.[9] The CPI–U for October 2022 exceeded the CPI–U for October 2021 by 7.745%.[10]

5. The second step requires multiplying the CPI–U percentage increase by the applicable existing maximum civil monetary penalty.[11] This step results in a base penalty increase amount.

6. The third step requires rounding the base penalty increase amount to the nearest dollar and adding that amount to the base penalty to calculate the new adjusted maximum civil monetary penalty.[12]

7. Under the 2015 Adjustment Act, an agency is directed to use the maximum civil monetary penalty applicable at the time of assessment of a civil penalty, regardless of the date on which the violation occurred.[13]

8. The adjustments that the Commission is required to make pursuant to the 2015 Adjustment Act are reflected in the following table:

Source	Existing maximum civil monetary penalty	New adjusted maximum civil monetary penalty
16 U.S.C. 825o–1(b), sec. 316A of the Federal Power Act	$1,388,496 per violation, per day	$1,496,035 per violation, per day.
16 U.S.C. 823b(c), sec. 31(c) of the Federal Power Act	$25,075 per violation, per day	$27,017 per violation, per day.
16 U.S.C. 825n(a), sec. 315(a) of the Federal Power Act	$3,275 per violation	$3,529 per violation.
15 U.S.C. 717t–1, sec. 22 of the Natural Gas Act	$1,388,496 per violation, per day	$1,496,035 per violation, per day.
15 U.S.C. 3414(b)(6)(A)(i), sec. 504(b)(6)(A)(i) of the Natural Gas Policy Act of 1978.	$1,388,496 per violation, per day	$1,496,035 per violation, per day.
49 App. U.S.C. 6(10) (1988), sec. 6(10) of the Interstate Commerce Act.	$1,453 per offense and $73 per day after the first day.	$1,566 per offense and $78 per day after the first day.
49 App. U.S.C. 16(8) (1988), sec. 16(8) of the Interstate Commerce Act.	$14,536 per violation, per day	$15,662 per violation, per day.
49 App. U.S.C. 19a(k) (1988), sec. 19a(k) of the Interstate Commerce Act.	$1,453 per offense, per day	$1,566 per offense, per day.
49 App. U.S.C. 20(7)(a) (1988), sec. 20(7)(a) of the Interstate Commerce Act.	$1,453 per offense, per day	$1,566 per offense, per day.

III. Administrative Findings

9. Congress directed that agencies issue final rules to adjust their maximum civil monetary penalties notwithstanding the requirements of the Administrative Procedure Act (APA).[14] Because the Commission is required by law to undertake these inflation adjustments notwithstanding the notice and comment requirements that otherwise would apply pursuant to the APA, and because the Commission lacks discretion with respect to the method and amount of the adjustments, prior notice and comment would be impractical, unnecessary, and contrary to the public interest.

IV. Regulatory Flexibility Statement

10. The Regulatory Flexibility Act, as amended, requires agencies to certify that rules promulgated under their authority will not have a significant economic impact on a substantial number of small businesses.[15] The requirements of the Regulatory Flexibility Act apply only to rules promulgated following notice and comment.[16] The requirements of the Regulatory Flexibility Act do not apply to this rulemaking because the Commission is issuing this final rule without notice and comment.

V. Paperwork Reduction Act

11. This rule does not require the collection of information. The Commission is therefore not required to submit this rule for review to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995.[17]

VI. Document Availability

12. 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 print the contents of this

[1] Public Law 114–74, sec. 701, 129 Stat. 584, 599.

[2] Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note).

[3] 28 U.S.C. 2461 note at (4). The Commission made its January 2022 adjustment on January 7, 2021, in Docket No. RM22–6–000. *See Civ. Monetary Penalty Inflation Adjustments,* Order No. 882, 87 FR 2036 (Jan. 13, 2022), 178 FERC ¶ 61,008 (2022).

[4] 28 U.S.C. 2461 note at (3).

[5] 16 U.S.C. 791a *et seq.*

[6] 15 U.S.C. 717 *et seq.*

[7] 15 U.S.C. 3301 *et seq.*

[8] 49 App. U.S.C. 1 *et seq.* (1988).

[9] 28 U.S.C. 2461 note at (5)(b)(1).

[10] *See, e.g.,* Memorandum from Shalanda D. Young, Office of Management and Budget, Implementation of the Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2022).

[11] 28 U.S.C. 2461 note at (5)(a).

[12] *Id.*

[13] *Id.* at (6).

[14] *Id.* at (3)(b)(2).

[15] 5 U.S.C. 601 *et seq.*

[16] 5 U.S.C. 603, 604.

[17] 44 U.S.C. 3507(d).

document via the internet through the Commission's Home Page (*https://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

13. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and downloading. To access this document in eLibrary, type the docket number (excluding the last three digits) in the docket number field.

14. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659, *public.referenceroom@ferc.gov*.

VII. Effective Date and Congressional Notification

15. For the same reasons the Commission has determined that public notice and comment are unnecessary, impractical, and contrary to the public interest, the Commission finds good cause to adopt an effective date that is less than 30 days after the date of publication in the **Federal Register** pursuant to the APA,[18] and therefore, the regulation is effective upon publication in the **Federal Register**.

16. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House, and Government Accountability Office.

List of Subjects

18 CFR Part 250

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

[18] 5 U.S.C. 553(d)(3).

Issued: January 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 250 and 385, chapter I, title 18, *Code of Federal Regulations* as follows:

PART 250—FORMS

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 28 U.S.C. 2461 note.

■ 2. Revise § 250.16(e)(1) to read as follows:

§ 250.16 Format of compliance plan for transportation services and affiliate transactions.

* * * * *

(e) * * *

(1) Any person who transports gas for others pursuant to subpart B or G of part 284 of this chapter and who knowingly violates the requirements of §§ 358.4 and 358.5 of this chapter, this section, or § 284.13 of this chapter will be subject, pursuant to sections 311(c), 501, and 504(b)(6) of the Natural Gas Policy Act of 1978, to a civil penalty, which the Commission may assess, of not more than $1,496,035 for any one violation.

* * * * *

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 3. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

■ 4. Revise § 385.1504(a) to read as follows:

§ 385.1504 Maximum civil penalty (Rule 1504).

(a) Except as provided in paragraph (b) of this section, the Commission may assess a civil penalty of up to $27,017 for each day that the violation continues.

* * * * *

■ 5. Revise § 385.1602 to read as follows:

§ 385.1602 Civil penalties, as adjusted (Rule 1602).

The current inflation-adjusted civil monetary penalties provided by law within the jurisdiction of the Commission are:

(a) 15 U.S.C. 3414(b)(6)(A)(i), Natural Gas Policy Act of 1978: $1,496,035.

(b) 16 U.S.C. 823b(c), Federal Power Act: $27,017 per day.

(c) 16 U.S.C. 825n(a), Federal Power Act: $3,529.

(d) 16 U.S.C. 825o–1(b), Federal Power Act: $1,496,035 per day.

(e) 15 U.S.C. 717t–1, Natural Gas Act: $1,496,035 per day.

(f) 49 App. U.S.C. 6(10) (1988), Interstate Commerce Act: $1,566 per offense and $73 per day after the first day.

(g) 49 App. U.S.C. 16(8) (1988), Interstate Commerce Act: $15,662 per day.

(h) 49 App. U.S.C. 19a(k) (1988), Interstate Commerce Act: $1,566 per day.

(i) 49 App. U.S.C. 20(7)(a) (1988), Interstate Commerce Act: $1,566 per day.

[FR Doc. 2023–00513 Filed 1–11–23; 8:45 am]

BILLING CODE 6717–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4071 and 4302

RIN 1212–AB45

Adjustment of Civil Penalties for Inflation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust for inflation the maximum civil penalty for failure to provide certain notices or other material information and for failure to provide certain multiemployer plan notices.

DATES:

Effective date: This rule is effective on January 12, 2023.

Applicability date: The increases in the civil monetary penalties under sections 4071 and 4302 of the Employee Retirement Income Security Act provided for in this rule apply to such penalties assessed after January 12, 2023.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101; 202–229–6563. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance M–23–05. The rule adjusts, as required for 2023, the maximum civil penalties under 29 CFR parts 4071 and 4302 that the Pension Benefit Guaranty Corporation (PBGC) may assess for failure to provide certain notices or other material information and certain multiemployer plan notices.

PBGC's legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the Employee Retirement Income Security Act of 1974 (ERISA).

Major Provisions of the Regulatory Action

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are $2,586 for section 4071 penalties and $345 for section 4302 penalties.

Background

PBGC administers title IV of ERISA. Title IV has two provisions that authorize PBGC to assess civil monetary penalties.[1] Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to $100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to $1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

Adjustment of Civil Penalties

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[2] which requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 15, 2022, the Office of Management and Budget issued memorandum M–23–05 on implementation of the 2023 annual inflation adjustment pursuant to the 2015 act.[3] The memorandum provides agencies with the cost-of-living adjustment multiplier for 2023, which is based on the Consumer Price Index (CPI–U) for the month of October 2022, not seasonally adjusted. The multiplier for 2023 is 1.07745. The adjusted maximum amounts are $2,586 for section 4071 penalties and $345 for section 4302 penalties.

Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866 and therefore not subject to its review.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

Because no general notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4071

Penalties.

29 CFR Part 4302

Penalties.

In consideration of the foregoing, PBGC amends 29 CFR parts 4071 and 4302 as follows:

[1] Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.

[2] Sec. 701, Public Law 114–74, 129 Stat. 599–601 (Bipartisan Budget Act of 2015).

[3] See M–23–05, Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, *https://www.whitehouse.gov/wp-content/uploads/2022/12/M-23-05-CMP-CMP-Guidance.pdf.*

PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

■ 1. The authority citation for part 4071 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1371.

§ 4071.3 [Amended]

■ 2. In § 4071.3, remove the number ''$2,400'' and add in its place the number ''$2,586''.

PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

■ 3. The authority citation for part 4302 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

§ 4302.3 [Amended]

■ 4. In § 4302.3, remove the number ''$320'' and add its place the number ''$345''.

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2023–00499 Filed 1–11–23; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DoD–2021–HA–0015]

RIN 0720–AB85

Expanding TRICARE Access to Care in Response to the COVID–19 Pandemic

AGENCY: Department of Defense.

ACTION: Interim final rule with request for comments.

SUMMARY: The Assistant Secretary of Defense for Health Affairs (ASD(HA)) issues this interim final rule (IFR) with comment to modify the TRICARE regulation by adding freestanding End Stage Renal Disease (ESRD) facilities as a category of TRICARE-authorized institutional provider and establishing reimbursement for such facilities and by temporarily adopting Medicare's New Coronavirus Disease 2019 (COVID–19) Treatments Add-on Payments (NCTAPs).

DATES:

Effective date: This IFR with comment is effective on January 12, 2023 through the end of the declared public health emergency (PHE), including any extensions, (as determined by 42 United States Code (U.S.C.) 247d), except the changes to ESRD facility provider status and reimbursement are permanent and will not expire. The ASD(HA) will publish a document announcing the expiration date for the temporarily adopted Medicare NCTAPs consistent with information in the **SUPPLEMENTARY INFORMATION** section.

Applicability date: Changes to ESRD provider status and facility reimbursement and the NCTAP provisions are applicable for TRICARE covered services received on or after the effective date of this IFR.

Comment date: Comments are invited and must be submitted on or before March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identification Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

- Jahanbakhsh Badshah, Defense Health Agency, Medical Benefits and Reimbursement Section, 303–676–3881, *Jahanbakhsh.Badshah.civ@health.mil,* or Jennifer Stankovic, Defense Health Agency, Medical Benefits and Reimbursement Section, 303–676–3742, *Jennifer.L.Stankovic.civ@health.mil,* for issues related to freestanding End Stage Renal Disease facilities.
- Sharon Seelmeyer, Defense Health Agency, Medical Benefits and Reimbursement Section, 303–676–3690, *Sharon.l.seelmeyer.civ@health.mil,* for issues related to NCTAPs.

SUPPLEMENTARY INFORMATION: *Expiration date:* Unless extended after consideration of submitted comments, the provision adopting Medicare NCTAPs will expire the last day of the fiscal year (FY) in which the Secretary of the Department of Health and Human Services (HHS) terminates the COVID–19 PHE. The adoption of ESRD facilities as a type of TRICARE-authorized institutional provider and the changes to the reimbursement of such facilities are permanent and will not expire.

The ASD(HA) will publish a document in the **Federal Register** announcing the expiration date, as appropriate, and will publish a Final Rule with any modifications made after consideration of public comments, the impact of the provisions in this IFR, and changes in the state of the COVID–19 pandemic.

I. Executive Summary

A. Purpose of the Rule

There is currently an outbreak of respiratory disease caused by a novel coronavirus. The virus has been named ''SARS–CoV–2,'' and the disease it causes is referred to as COVID–19. On January 31, 2020, the Secretary of HHS determined that a PHE had existed since January 27, 2020. On March 13, 2020, the President declared a national emergency due to the COVID–19 outbreak, retroactive to March 1, 2020 (Proclamation 9994, 85 FR 15337). The current administration has continued the national emergency declaration, via a notice issued February 18, 2022, which was published in the **Federal Register** on February 23, 2022 (87 FR 10289). Following the declaration of the national emergency, the President signed into law multiple statutes to provide economic and health care relief for individuals and businesses, including health care providers.

While the substantial access to COVID–19 vaccinations in the United States initially resulted in State and local governments relaxing restrictions for individuals and in improved conditions for health care providers due to the decreasing rate of new COVID–19 cases, the emergence of the Delta variant of the virus, which proved to be more infectious and more resistant to vaccination, resulted in a surge of COVID–19 infections in the United States, as well as an increase in the rate of hospitalizations, deaths, and health care providers at capacity. In July 2021, the Centers for Disease Control and Prevention (CDC) released guidance recommending that both vaccinated and unvaccinated individuals wear face masks in public indoor settings in areas of substantial or high transmission. Likewise, the Federal Government and many State, local, and tribal governments resumed or increased various restrictions. In December 2021, the Omicron variant replaced the Delta variant as the predominant COVID–19 variant in the United States. Although the Omicron variant is reportedly less severe than previous variants, it also results in a much higher level of transmission than previous variants and is still responsible for high levels of severe illness, hospitalization, and death, primarily in the unvaccinated and immunocompromised populations. Additionally, COVID–19 vaccines available in the United States are currently less effective at preventing COVID–19 caused by the Omicron variant. The CDC also states that new variants of COVID–19 are expected to occur, and that even if a variant is less severe in general, ''an increase in the overall number of cases could cause an increase in hospitalizations, put more strain on healthcare resources and potentially lead to more deaths.'' [1] Thus, the pandemic continues to threaten to strain the health care system. Although most States have again relaxed restrictions, due to the continuation of pandemic conditions—namely the continuing rates of new cases; hospitalizations; deaths; providers rationing health care resources; and intensive care units at or beyond capacity—the President has continued the national emergency declaration.

Consistent with the President's national emergency declaration and as a result of the COVID–19 pandemic, the ASD(HA) hereby modifies the following regulations, but in each case, only to the extent determined necessary to ensure that TRICARE beneficiaries have expanded access to care required for the treatment of COVID–19 and for other medically necessary care, and that TRICARE continues to reimburse like Medicare, to the extent practicable, as required by 10 U.S.C. 1079(i).

Freestanding ESRD Facilities 32 CFR 199.6(b)(4)(xxi) and 199.14(c): These provisions establish freestanding ESRD facilities as institutional providers within the TRICARE program and establish a TRICARE reimbursement methodology for freestanding ESRD facilities. Currently these facilities are classified as Corporate Service Providers (CSPs) and are reimbursed using a fee-for-service (FFS) methodology for covered professional services, and may not be paid institutional charges (*e.g.,* reimbursement for general nursing services or the use of treatment rooms).

[1] *https://www.cdc.gov/coronavirus/2019-ncov/variants/about-variants.html?s_cid=11723:covid%2019%20variants%20of%20concern:sem.ga:p:RG:GM:gen:PTN:FY22.*

The inclusion of freestanding ESRD facilities as institutional providers is required first in order to permit TRICARE reimbursement of institutional charges. Both changes (making these providers authorized institutional providers and adding a reimbursement methodology) will make TRICARE reimbursement of freestanding ESRD facilities, as well as dialysis services and supplies, more consistent with the Medicare reimbursement methodology for freestanding ESRD facilities, in accordance with the statutory requirement in 10 U.S.C. 1079(i) to reimburse like Medicare for like services and supplies provided by an authorized TRICARE institutional provider when determined to be practicable as required. These permanent changes are included in this IFR because existing restrictions on ESRD facilities (*i.e.*, provider status and professional services only-based reimbursement) reduce access to medically necessary, often lifesaving services for immunocompromised ESRD patients. This is of even greater concern during the COVID–19 pandemic, especially with the emergence of the Delta variant, which is more severe and more resistant to vaccination in immunocompromised individuals (*i.e.,* those with ESRD), and the Omicron variant, which is much more resistant to vaccination and much more transmissible than previous variants.

DRG Add-on for NCTAP 32 CFR 199.14(a)(1)(iv)(C): This change temporarily adopts Medicare's NCTAP under the Inpatient Prospective Payment System (IPPS) for COVID–19 cases that meet Medicare's criteria. By statute, 10 U.S.C. 1079(i), TRICARE shall, to the extent practicable, reimburse institutional providers in accordance with Medicare reimbursement rules. As such, TRICARE has generally adopted the Medicare IPPS using the Diagnosis-Related Group (DRG) system (32 CFR 199.14(a)(1)). Based on Section 3710 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136), Medicare increased the weighting factor of the assigned DRG by 20 percent for an individual diagnosed with COVID–19 discharged during the COVID–19 PHE period. On November 6, 2020 (effective November 2, 2020), the Centers for Medicare and Medicaid Services (CMS) issued an IFR (85 FR 71142), further increasing the current IPPS payment amounts as drugs and biological products become available and are authorized or approved by the Food and Drug Administration for the treatment of COVID–19 in the inpatient setting for the duration of the PHE. In a final rule (86 FR 44774), CMS subsequently extended the NCTAP expiration date to the end of the FY in which the PHE ends for all eligible products, with any new technology add-on payment reducing the NCTAP amount. CMS stated that they pursued this change because they ''anticipate that there might be inpatient cases of COVID–19, beyond the end of the PHE, for which payment based on the assigned Medicare Severity-DRG may not adequately reflect the additional cost of new COVID–19 treatments'' and they wish to ''continue to mitigate potential financial disincentives for hospitals to provide these new treatments, and to minimize any potential payment disruption immediately following the end of the PHE.'' In issuing a final rule, the DoD may make modifications based on public comments received, the impact of the provisions in this IFR, and any changes in the conditions surrounding the pandemic.

B. Interim Final Rule Justification

Agency rulemaking is governed by the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.* Section 553(b) requires that, unless the rule falls within one of the enumerated exemptions, DoD must publish a notice of proposed rulemaking in the **Federal Register** that provides interested persons an opportunity to submit written data, views, or arguments prior to finalization of regulatory requirements. Section 553(b)(B) authorizes a department or agency to dispense with the prior notice and opportunity for public comment requirement when the agency, for ''good cause,'' finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. For both the NCTAP and ESRD provisions, the ASD(HA) has determined notice and public comment before promulgation of this rule would be contrary to the public interest and therefore finds good cause to enact the changes described in this rule through an IFR, effective the date of publication in the **Federal Register**. The ASD(HA)'s justification is as follows:

First, as of this rule's writing, both the PHE and the President's declared national emergency are still in effect; therefore, the Administration still finds COVID–19 to be an emergency situation and unnecessary delays should be avoided to the greatest extent possible. While DoD acknowledges that the pandemic has been ongoing for many months, DoD maintains that, given the ongoing uncertainty as to what dangers future COVID–19 variants may pose, it is impracticable and contrary to the public interest to delay these regulations until a full public notice-and-comment process is completed. Second, patients and providers alike continue to struggle due to burdens imposed by the COVID–19 pandemic. The emergence of the Delta and Omicron variants have resulted in increased COVID–19 cases, hospitalizations, and deaths, which have worsened resource constraints on providers, limited access to medically necessary health care services and supplies for TRICARE beneficiaries, and cost many beneficiaries their health and their lives. Meanwhile, the trajectory of COVID–19, including number of future variants and severity of each variant, remains an unknown variable. In such a precarious and uncertain healthcare landscape, it is imperative that TRICARE ensure continued access to care for TRICARE beneficiaries while simultaneously following its statutory mandate to pay for like services and supplies using Medicare reimbursement methodologies, when practicable. In promulgating this IFR, the Defense Health Agency (DHA) has evaluated and re-evaluated each provision to ensure the IFR remains up to date with current developments during the COVID–19 pandemic and to publish only such requirements and authorities that DHA deems necessary to respond to the declared national emergency and PHE in order to best provide for the health of TRICARE beneficiaries. It is likewise crucial that TRICARE authorize ESRD facilities as institutional providers as expeditiously as possible to ameliorate the resource constraints current TRICARE-authorized providers are facing and increase the access of beneficiaries with a life-threatening disease to proven, medically necessary care in the most appropriate setting. Considerations specific to the two provisions contained in this IFR are discussed in greater depth below. Finally, this rule imposes no restrictions, financial penalties, or regulatory burdens on the public that would make a notice and comment period necessary or prudent; in fact, this IFR would ensure better access to medically necessary care for TRICARE beneficiaries by providing appropriate reimbursement to TRICARE providers. We anticipate no negative feedback from the general public on the provisions within this IFR; advance notice and comment would only delay increased payment to providers and improved access to care for beneficiaries. Moreover, an earlier DHA COVID–19 IFR (85 FR 54914–54924) that relaxed

certain regulatory restrictions for providers and increased reimbursement to providers in order to follow Medicare reimbursement methodologies received no negative comments. A delay to wait for a notice and comment period is therefore impracticable and is contrary to public interest and public health. Further, the public is still encouraged to comment on this IFR and DHA is committed to responding to any comments in a future final rule.

Specifically regarding the adoption of Medicare's NCTAPs, it is crucial that providers be reimbursed adequately for COVID–19 treatments involving new, high-cost services and supplies to which Medicare has deemed appropriate to apply an add-on payment. Adopting this change will ensure that TRICARE beneficiaries continue to receive maximized access to new, high-cost COVID–19 treatments such as remdesivir and convalescent plasma as well as any qualifying treatments that may follow. CMS established the NCTAP ''to increase the current IPPS payment amounts to mitigate any potential financial disincentives for hospitals to provide new COVID–19 treatments during the PHE'' in an IFR (85 FR 71142) published November 6, 2020. Due to the statutory requirement that TRICARE reimburse providers using Medicare reimbursement methodologies for like services and supplies, when practicable, DHA adopted these changes, as well as the changes made in this IFR, because the ASD(HA) determined that such changes were practicable and necessary due to the COVID–19 pandemic. Although DHA is not required to adopt all Medicare reimbursement methodologies—only those that are practicable—the ASD(HA) does find it practicable to adopt Medicare's NCTAP and likewise finds it necessary to promulgate this change in an IFR, effective the publication date of this IFR (*i.e.* dispensing with prior notice and opportunity for public comment due to good cause), for the reasons discussed in this section and throughout this preamble. By not matching Medicare reimbursement as anticipated under statutory requirements and after DHA has previously adopted Medicare reimbursement changes specific to the PHE, providers may be hesitant to take on TRICARE beneficiaries as patients, especially while they continue to struggle financially. Such a scenario could occur during the remainder of the COVID–19 PHE if provider resource constraints continue or worsen or another variant surges. DoD wishes to avoid any such scenario which could impede TRICARE beneficiary future access to care and which may also decrease beneficiary satisfaction, decrease beneficiary outcomes, and negatively impact active duty service member readiness.

Additional good cause exists to publish as an IFR the permanent amendments to the TRICARE regulation regarding adoption of freestanding ESRD facilities as authorized institutional providers and modifications to the reimbursement of freestanding ESRD facilities. As previously noted, TRICARE is mandated by law, 10 U.S.C. 1079(i)(2), to reimburse institutional providers using the Medicare reimbursement methodologies, to the extent practicable. Medicare recognizes freestanding and hospital-based ESRD facilities as institutional providers and reimburses ESRD facilities using a specific ESRD Prospective Payment System (PPS). Due to historically low volume, TRICARE has neither classified freestanding ESRD facilities as institutional providers nor adopted the Medicare ESRD PPS. However, in recent years, there has been increasing volume of TRICARE beneficiaries requiring ESRD services and DHA has determined that because the TRICARE payment methodology for freestanding ESRD facilities designated as CSPs does not reimburse these facilities for their institutional charges, this could result in freestanding ESRD providers declining to accept TRICARE patients who need dialysis and other ESRD services and supplies. As such, the ASD(HA) has determined that, while it would be impracticable to adopt the Medicare ESRD PPS, it is practicable to adopt a TRICARE-specific ESRD rate that approximates the Medicare ESRD rate. The national emergency caused by the COVID–19 pandemic and extended by the Delta, Omicron, and potentially other future variants has resulted in a severe shortage of health care providers and supplies, and it is imperative that (1) TRICARE beneficiaries have maximized access to care for ESRD services and (2) ESRD services are available, where appropriate, outside hospital settings to ensure that hospitals are more efficiently able to maximize resources to treat COVID–19 and other conditions requiring the acuity of inpatient or outpatient hospital settings. Due to these resource constraints for providers and the lack of reimbursement for institutional charges under the TRICARE program's existing reimbursement methodology based on restricted TRICARE provider status, ESRD facilities have notified DHA that they may be forced to leave the TRICARE private sector network if payment rates do not include reimbursement for institutional charges. A reduction in network ESRD facilities would severely restrict the access of TRICARE beneficiaries to life-saving ESRD services and supplies during the remainder of the COVID–19 pandemic and could impose additional, unnecessary costs on TRICARE beneficiaries who consequently have to choose care from a provider who is out of network or is not a participating provider within the TRICARE program. Barriers to access and increased costs could prevent TRICARE beneficiaries from seeking or receiving medically necessary treatment for ESRD. Furthermore, ESRD is a life-threatening condition and patients with ESRD are immunocompromised—and therefore more susceptible to COVID–19–so it is especially imperative during the COVID–19 pandemic that these beneficiaries receive prompt, accessible, high-quality ESRD services in the most appropriate setting. Having patients with ESRD receive treatment in an ESRD facility rather than in another setting may also improve capacity or other resource constraints that other institutional providers are facing during the COVID–19 pandemic; by not treating ESRD patients, these providers will be able to focus their resources on treating other patients, such as those with COVID–19 during times of surging infection rates or new variants. For example, should hospitals continue to experience periodic patient admission surges, TRICARE beneficiaries who are ESRD patients would neither be occupying valuable emergency department and inpatient beds nor would they be turned away from treatment due to hospitals being over capacity, as they could be treated in freestanding ESRD facilities instead of in a hospital setting (as appropriate for their specific medical needs). Lastly, DoD intends to make this change in ESRD provider status and reimbursement methodology permanent, in conformance with statutory mandates to reimburse providers of services of the same type (*i.e.*, institutional providers) to the extent practicable in accordance with Medicare reimbursement methodologies. While ensuring adequate access to ESRD providers by immunocompromised TRICARE ESRD patients during the COVID–19 national emergency, it would not be practicable or efficient to revoke the new provider status and fail to continue reimbursing ESRD providers to the extent practicable in accordance with Medicare

reimbursement upon the expiration of the President's national emergency declaration.

In exercising the authority under statute 5 U.S.C. 553(b)(B), the ASD(HA) has determined that good cause exists to avoid delay as further notice and public comment would be impracticable and contrary to the public interest. Nonetheless, public comments on this IFR are still invited and DoD is committed to considering all comments in enacting any final regulations. Therefore, pursuant to 5 U.S.C. 553(b)(B), and for the reasons stated in this preamble, the ASD(HA) concludes that there is good cause to dispense with prior public notice and the opportunity to comment on this rule before finalizing this rule. For the same reasons and due to the fact that no harm could occur in implementing this rule effective upon publication, as it does not impose any burdens upon the public but rather increases their reimbursement, the ASD(HA) has determined, consistent with section 553(d) of the APA, that there is good cause to make this IFR effective immediately upon publication in the **Federal Register**.

C. Summary of Major Provisions

Freestanding ESRD Facilities

These provisions, 32 CFR 199.6 and 199.14, establish freestanding ESRD facilities as institutional providers under the TRICARE Program and modify TRICARE reimbursement of ESRD facilities.

ESRD Background and Coverage

ESRD is the fifth and final stage of Chronic Kidney Disease and necessitates long-term dialysis or a kidney transplant; without treatment, death is imminent. There are three treatment options for ESRD, including two types of dialysis. First, patients may receive a kidney transplant; however, there are approximately 100,000 individuals on the national kidney transplant list at any given point in time, but only 20,000 kidneys available each year in the United States. Consequently, most ESRD patients receive dialysis until they can receive a kidney transplant from a suitable donor. A patient may receive hemodialysis, in which the patient's blood is filtered externally before being returned to the body. Most patients (86%) begin ESRD treatment receiving this type of dialysis, which can be performed at home or in an inpatient or outpatient medical facility. Alternatively, a patient may receive peritoneal dialysis, in which fluid is injected into the patient's abdomen, blood is filtered, and waste is filtered out through a semi-permanent tube. Although this type of dialysis can be performed in a patient's home, fewer than 11% of patients begin ESRD receiving this type of dialysis. The remaining 3% of patients beginning ESRD treatment receive a preemptive kidney transplant.

In 1972, Congress passed an amendment to the Social Security Act (Pub. L. 92–603), which added ESRD to the list of qualifying conditions for which a person is entitled to enroll in Medicare. ESRD patients under the age of 65 must undergo a waiting period before being able to enroll in Medicare. Currently, TRICARE beneficiaries are eligible for Medicare coverage on the basis of an ESRD diagnosis on the first day of the fourth month of dialysis treatment, after which the beneficiary, if enrolled in Medicare, becomes dual eligible (*i.e.,* both a beneficiary of TRICARE and Medicare). Therefore, for those beneficiaries enrolled in Medicare, TRICARE is first payer during the first three months of dialysis treatment for beneficiaries under age 65 and is second payer starting with the fourth month of treatment. Approximately 500 to 600 TRICARE beneficiaries who are not already enrolled to Medicare receive dialysis each year. Most claims for dialysis received by TRICARE (approximately 90%) are for individuals with both TRICARE and Medicare eligibility.

Freestanding ESRD Facilities

The term ''freestanding ESRD facilities'' refers to non-hospital, freestanding providers that render services and supplies related to ESRD, including outpatient dialysis treatments, home dialysis training and equipment, drugs and biologicals, laboratory tests, and nursing services. Freestanding ESRD facilities may also provide dialysis services for acute kidney injury (AKI), and will be reimbursed for AKI services under the provisions established in this IFR. ESRD facilities may also be known as Dialysis Facilities and Dialysis Centers, and they include both freestanding and hospital-based providers. Hospital-based ESRD facilities are already reimbursed for their institutional charges by TRICARE, generally under the Outpatient Prospective Payment System (OPPS) or other rules that apply to special hospitals, such as Critical Access Hospitals; this IFR concerns freestanding ESRD facilities only. TRICARE utilizes Medicare's classification for determining if a facility is hospital-based (42 CFR 413.174). If Medicare considers a dialysis treatment facility to be hospital-based or part of a hospital outpatient department, TRICARE accepts that determination without exception. No changes will be made to hospital-based ESRD facilities as a result of this IFR. They will continue to be reimbursed on the basis of OPPS, or in the case of Sole Community Hospitals, Critical Access Hospitals, or other special providers (*e.g.,* Cancer and Children's hospitals), on the basis of existing reimbursement methodologies.

Currently, freestanding ESRD facilities are considered non-institutional CSPs under the TRICARE Program and are not considered institutional providers, as described in 32 CFR 199.6(b). As a result, these providers can only be reimbursed for professional services and for covered supplies and pharmaceuticals on a FFS basis. CSPs may not be reimbursed for institutional services outlined in 32 CFR 199.4(b), such as the use of special treatment rooms, general staff nursing services, and room and board. In order to modify TRICARE reimbursement of ESRD facilities to better reflect Medicare's ESRD PPS (*e.g.,* to include payment for institutional services), freestanding ESRD facilities must first be classified as authorized institutional providers under the TRICARE Program in § 199.6.

Title 42 CFR part 494 provides Medicare's Conditions for Coverage for both hospital-based and freestanding ESRD Facilities. As ESRD is a Medicare-qualifying condition, we find it appropriate to adopt Medicare approval of freestanding ESRD facilities, including all Medicare conditions for coverage required for Medicare approval of freestanding ESRD facilities, in order to be an authorized TRICARE ESRD facility and receive payment under the TRICARE program. Those ESRD facilities that qualify to be an authorized TRICARE ESRD institutional provider on the effective date of this IFR may apply for TRICARE authorized provider status and be reimbursed under the new TRICARE reimbursement methodology for ESRD facilities for covered services furnished to an eligible TRICARE beneficiary on or after the IFR effective date. No new TRICARE CSP participation agreements will be accepted for coverage of ESRD services on or after the effective date of this IFR, and all current TRICARE CSP participation agreements will be terminated from freestanding ESRD facilities on the effective date of this IFR. Only ESRD services furnished by hospital-based ESRD facilities and TRICARE authorized freestanding ESRD facilities will qualify as TRICARE

covered services. We encourage comments on whether TRICARE should consider any additional criteria for freestanding ESRD facilities to be considered TRICARE-authorized institutional providers.

Reimbursement

In 2011, CMS established the ESRD PPS, which is the methodology used to reimburse ESRD facilities. The ESRD PPS pays facilities a case-mix adjusted rate for dialysis services, per dialysis treatment, including drugs, laboratory tests, and supplies. The specific rate varies by patient characteristics (*e.g.,* age, body surface area, body mass index, co-morbidities, date of onset of dialysis) and facility characteristics (*e.g.,* area wage-index, treatment volume, and rural location). The base rate and methodology are updated annually in the Medicare ESRD PPS Final Rule, published in the **Federal Register**; in Calendar Year (CY) 2021, the base rate was $253.13 and in CY22, the base rate was $257.90 (86 FR 61874).

Additionally, facilities may receive separately-paid outlier payments if a patient's treatment costs exceed a specified threshold for certain items. Facilities may also be paid separately for certain drugs and supplies, using add-on payments known as Transitional Drug Add-on Payment Adjustment and Transitional Add-on Payment Adjustment for New and Innovative Equipment and Supplies. Once approved for a specific drug or supply, the add-on payment is applied for two years, after which the reimbursement for these products is bundled into the base payment amount. CMS has also established a Quality Incentive Program (QIP) for reimbursement of ESRD facilities.

As discussed above, DHA reimburses dialysis services on a FFS basis for the covered professional services and supplies only, as freestanding ESRD facilities are not classified as institutional providers in 32 CFR 199.6. Currently, most freestanding ESRD facilities are only eligible to be considered CSPs, as defined in 32 CFR 199.6(f). The CSP class of providers consists of freestanding corporations and providers that render principally professional, ambulatory, or in-home care and technical diagnostic procedures. The intent behind CSPs is not to create additional benefits that ordinarily would not be covered under TRICARE if provided by a more traditional health care delivery system, but rather to allow cost-sharing for services which would otherwise be allowed except for an authorized individual professional provider's affiliation with a freestanding corporate entity, such as a medical doctor or physical therapist employed directly with a freestanding corporate entity or foundation. This limits reimbursement for freestanding ESRD facilities qualifying as CSPs to only professional services, along with supplies and drugs, and excludes reimbursement of facility charges, such as general nursing services and reimbursement for the use of treatment rooms.

This rule will establish a TRICARE reimbursement methodology for freestanding ESRD facilities to better reflect the Medicare reimbursement rate under the Medicare ESRD PPS by recognizing freestanding ESRD facilities as authorized institutional providers and permitting reimbursement of facility charges. In 2021, freestanding ESRD providers were paid, via the CHAMPUS Maximum Allowable Charge Method (CMAC), approximately $119 per session, on average, for professional services, plus an additional average of $125 for supplementary drugs, tests, and supplies, leading to an average per-session reimbursement of approximately $244. While this rate was roughly comparable to the Medicare base rate, it does not account for other adjustments and modifications made by Medicare to the base rate as part of the Medicare ESRD PPS.

Medicare adjusts the base rate for patient-level characteristics, including age, body mass index, specific conditions, and date of onset, as well as facility-level characteristics such as wage-index, low-volume factors, rural locations, and outlier payments. Medicare also provides a separate payment for certain exceptional drugs or equipment and supply items during a transitional status. Finally, Medicare continues to refine the system through the QIP.

Our analysis has shown that the two most important factors in Medicare's adjustment of the base rate that would apply to TRICARE's population are age and date of onset. The age adjustment factor is approximately 7% for patients ages 44–69. We found that over 70% of TRICARE ESRD patients where TRICARE is the primary payer are between the ages of 44–69, and thus we think that a 7% adjustment would be practicable. A more important factor is the 32.7% adjustment used by Medicare for patients in the first four months since the onset of dialysis.

In lieu of the current method of reimbursement utilizing the CMAC for the professional charges plus additional allowed amounts for laboratory, pharmaceuticals, and supplies (with no reimbursement for facility charges), under the provisions of this rule, TRICARE will reimburse a single, flat, per-session fee which will include all charges for the facility use, general nursing services, laboratory services related to ESRD care, pharmaceuticals (excepting those allowed for separate payment by Medicare), and supplies. The TRICARE ESRD rate will have a higher reimbursement for the first 120 days of dialysis, and a different, lower rate for days 121 and later where TRICARE is the primary payer. This reflects Medicare's adjustment of 32.7% for the first four months of ESRD treatment. We also propose to add a 7% adjustment to each rate (*i.e.* both for 0–120 days and 121 days and later) to account for the fact that approximately 70% of the beneficiaries receiving ESRD care for which TRICARE is the primary payer are between ages 44 and 69. Additionally, to account for training services and supplies, dialysis training sessions will receive a home dialysis training add-on payment for day treatment days 121 and after. The training add-on payment will not apply to treatment days 1–120, as the onset adjustment factor of 32.7% is applied to the per-session rate for treatment days 1–120. The rates below use CY 2021 rates as an example.

	CY 2021 TRICARE FFS methodology average	CY 2021 Medicare base rate	Proposed TRICARE 2021 rate— first 120 days	Proposed TRICARE 2021 rate— 121 days and later
Per Session Reimbursement, CY 21.	$244	$253.13	$359.42	$270.85.
Reimbursement Components	$119 for the Professional Charge plus $125 for Lab, Drugs, and Supplies.	Medicare Published Base Rate	Medicare Base Rate multiplied by: 7% Age Adjustment; 32.7% Onset Adjustment.	Medicare Base Rate multiplied by: 7% Age Adjustment.

As stated above, this fee will incorporate all ESRD-related laboratory services, pharmaceuticals, and supplies required in the course of the dialysis treatment. The flat rates above also apply to renal dialysis services furnished to TRICARE beneficiaries for home dialysis services, which include: home dialysis support services identified at 42 CFR 494.100; the purchase and delivery of all necessary home dialysis supplies; and dialysis training for days 1–120. The authorized TRICARE ESRD institutional provider will receive the same reimbursement rate for home dialysis services as it would receive for in-facility dialysis services. All renal dialysis items and services furnished in the ESRD facility or in a patient's home are included in the rates above and must be furnished by the ESRD facility, either directly or under an arrangement. Only the following services will be allowed separate reimbursement:

- Evaluation and management services rendered by authorized individual professional providers (*e.g.,* a nephrologist evaluating the patient). These services will continue to be reimbursed via the CMAC system.
- Drugs, supplies, and devices listed by Medicare as eligible for Transitional Drug Add-on Payment Adjustment and Transitional Add-on Payment Adjustment for New and Innovative Equipment and Supplies. These services may be reimbursed via the CMAC and/or Durable Medical Equipment Prosthetics Orthotics and Supplies (DMEPOS) reimbursement system (*e.g.,* reimbursement for drugs may be made using existing policy on the reimbursement of medical claims that include drugs), and in cases where no CMAC, DMEPOS, or other rate exists, TRICARE will reimburse on the basis of billed charges, subject to the provisions of 32 CFR 199.9, administrative remedies for fraud and abuse. Information on these items can be found in the Medicare website sections outlining the ESRD PPS. [*https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/ESRD-Transitional-Drug* and *https://www.cms.gov/medicare/esrd-pps/esrd-pps-transitional-add-payment-adjustment-new-and-innovative-equipment-and-supplies-tpnies*].
- Services unrelated to ESRD care (*e.g.,* if a flu shot is administered at the same time as dialysis treatment). These services will continue to be reimbursed using existing reimbursement systems (*e.g.,* CMAC).

The flat rate shall be updated each year by utilizing the Medicare base rate, promulgated in their annual ESRD PPS final rule, and by adjusting it using the age adjustment factor for individuals aged 44–69 (currently 7%, however, if Medicare modifies this adjustment factor in subsequent years DHA will utilize the updated factor) and the Medicare adjustment factor for date of onset (currently 32.7%, however, if Medicare modifies this adjustment factor in subsequent years DHA will utilize the updated factor).

The flat rate also will be wage adjusted to provide adequate locality adjustments, using the wage indices published by Medicare for the ESRD PPS. This adjustment serves to more appropriately reimburse freestanding ESRD facilities based on their locality (*e.g.,* higher cost areas receive higher reimbursement than lower-cost areas). Both Medicare and TRICARE reimbursement methodologies for other provider types use a similar methodology to appropriately reimburse providers based on locality; the Medicare ESRD PPS likewise uses an area wage-index adjustment to the base rate for this purpose. TRICARE's ESRD reimbursement methodology will apply the wage adjustment factor to the same percentage of the base rate as specified by CMS in the ESRD PPS, including any future updates by CMS in the ESRD final rule. Therefore, the TRICARE ESRD reimbursement methodology will approximate the Medicare methodology in the ESRD PPS. DHA will issue policy regarding the precise reimbursement methodology for freestanding ESRD facilities in its implementing instructions, and will provide an annual listing of rates on its website at *www.health.mil/rates* within 90 days of issuance of the Medicare Final Rule containing the updated base rate.

This reimbursement approach approximates, but does not duplicate, Medicare's ESRD PPS. It is not practicable for DHA to implement Medicare's ESRD PPS because of the small number of beneficiaries for which TRICARE is the primary payer. The administrative start-up and ongoing maintenance costs of implementing such a complex system would outweigh benefits of adoption. We believe that this flat payment, one for the first 120 days, and another for 121 days and later, sufficiently retains the intent to reimburse like Medicare to the extent practicable, while also ensuring adequate reimbursement for ESRD services delivered at freestanding ESRD facilities.

We invite comments on this methodology and may make further refinements through the issuance of a Final Rule.

Copayments and Cost-Sharing

Treatment in freestanding ESRD facilities (including home dialysis services) shall be considered specialty outpatient visits for the purposes of cost-sharing and copayments under the program. Applicable copayments and cost-shares as described in 32 CFR 199.4 and 199.17(k)(2)(iii) will apply upon publication of this rule.

DRG Add-On Payment for NCTAP

This provision, 32 CFR 199.14(a)(1)(iv)(C), temporarily adopts Medicare's NCTAP for services and supplies otherwise covered under the TRICARE Program, including adopting Medicare's termination date for NCTAPs, which CMS extended for discharges that occur through the end of the FY in which the PHE terminates. TRICARE shall reimburse acute care hospitals an NCTAP amount which is the lesser of (1) 65 percent of the operating outlier threshold for the claim or (2) 65 percent of the amount by which the costs of the case exceed the standard DRG payment, including the adjustment to the relative weight under section 3710 of the CARES Act, for certain cases that include the use of a drug or biological product currently authorized or approved for treating COVID–19. The NCTAP will not be included as part of the calculation of the operating outlier payments. Providers must submit claims in accordance with the TRICARE claims filing deadline requirements, which are located in the TRICARE implementing instructions (*i.e.,* the TRICARE manuals).

D. Legal Authority for This Program

This rule is issued under 10 U.S.C. 1073(a)(2) giving authority and responsibility to the Secretary of Defense to administer the TRICARE program. The statutory requirements to reimburse individual and institutional providers for like services and supplies using the same methodologies as Medicare are located in 10 U.S.C. 1079(h) and (i), respectively. The text of 10 U.S.C. chapter 55 can be found at *https://manuals.health.mil/.*

II. Regulatory History

Each of the sections being modified by this rule are revised every few years to ensure requirements continue to align with the evolving health care field.

Title 32 CFR 199.6 was last modified November 17, 2020 (85 FR 73196). This change added Doctors of Podiatric Medicine and Podiatrists as allied health professionals under the TRICARE Program, added referral and supervision requirements for physical therapists and occupational therapists, and added

speech pathologists as paramedical providers under the TRICARE Program.

Title 32 CFR 199.14 was last modified September 3, 2020 (85 FR 54924). This change added multiple provisions related to the COVID–19 pandemic (*i.e.,* adjusting DRG and long-term care facility payments), adopted Medicare New Technology Add-On Payments, and adopted Medicare Hospital Value Based Program adjustments.

III. Regulatory Analysis

A. Regulatory Planning and Review

a. Executive Orders

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Accordingly, the rule has been reviewed by the Office of Management and Budget under the requirements of these Executive Orders. This rule has been designated a ''significant regulatory action'' although determined to be not economically significant, under section 3(f) of Executive Order 12866.

b. Summary

The modifications to paragraphs 199.6(b)(4)(xxi) and 199.14(c) in this IFR will establish freestanding ESRD facilities as a category of institutional provider within the TRICARE program and will create a TRICARE reimbursement system for those facilities. These changes will make TRICARE reimbursement of freestanding ESRD facilities, as well as dialysis services and supplies provided by these facilities, more consistent with the Medicare PPS rates for ESRD facilities, in accordance with the statutory requirement to reimburse like Medicare for like services and supplies to providers of services of the same type (*i.e.,* institutional providers) except when impracticable. These changes will also allow for TRICARE payment of institutional services rendered by freestanding ESRD facilities. The modification to paragraph 199.14(c) will require the deletion of a now-defunct provision, that the Director, DHA, shall establish reimbursement for institutions other than hospitals and Skilled Nursing Facilities. Since the new ESRD reimbursement provisions will be moved to paragraph 199.14(c), and since 10 U.S.C 1079(i)(2) requires amounts to be paid to institutions to be prescribed in regulation, the existing requirement in 199.14(c) is unnecessary and will be deleted from regulation.

The modifications to paragraph 199.14(a)(1)(iv)(C) in this IFR will temporarily adopt the Medicare NCTAP for COVID–19 patients through the end of the FY in which the PHE terminates. The NCTAP provides additional reimbursement in addition to the 20 percent add-on payment under section 3710 of the CARES Act equal to the lesser of (1) 65 percent of the operating outlier threshold for the claim or (2) 65 percent of the amount by which the costs of the case exceed the standard DRG payment, including the adjustment to the relative weight under section 3710 of the CARES Act, for certain cases that include the use of a drug or biological product currently authorized or approved for treating COVID–19. NCTAP claims are those that are eligible for the 20 percent add-on payment indicated by the presence of COVID diagnosis codes, plus the presence of certain procedure codes for certain COVID–19 treatments including remdesivir, or convalescent plasma.

c. Affected Population

This change impacts all TRICARE beneficiaries who require dialysis, who are receiving COVID–19 treatments eligible for NCTAPs, or who require medically necessary services during the COVID–19 pandemic. Providers who render treatments eligible for NCTAPs will be impacted by being able to receive higher, more appropriate reimbursement from TRICARE than they would have in the absence of this rule. Providers may also experience decreased patient volume burden if their patients with ESRD are able to be treated in a freestanding ESRD facility instead. Freestanding ESRD facilities will be impacted by receiving higher reimbursement for care provided to TRICARE beneficiaries who have not enrolled in Medicare. TRICARE's health care contractors will be impacted by being required to implement the provisions of this regulatory change. State, local, and tribal governments will not be impacted.

d. Costs

The cost estimates related to the changes discussed in this IFR include incremental health care cost increases (also known as transfer costs) as well as administrative costs to the government. Only the ESRD provisions will result in recurring incremental health care costs, while the NCTAP provision will result in cost increases from the effective date of the IFR though the FY in which the PHE terminates. The cost estimate assumes that the PHE continues into, but not beyond, FY 2023; however, the COVID–19 pandemic contains substantial uncertainty including the possibility of additional COVID–19 variants resistant to current vaccines and treatments, as well as the actual date the PHE terminates. As such, we find it appropriate to make these regulatory changes despite the potential short effective period, as the end of the pandemic is by no means a certainty.

Based on these factors, as well as the assumptions for each provision detailed below, we estimate that the total cost estimate for this IFR through FY 2023 will be approximately $8.08M. This estimate includes approximately $0.75M in administrative costs and $7.33M in direct health care costs. The NCTAP provision is expected to have costs through FY 2023, while the permanent ESRD provisions are expected to result in $5.23M in incremental annual costs, with a 4.5% increase each subsequent year due to inflation and an increase in cases.

A breakdown of costs, by provision, is provided in the below table. A discussion of assumptions follows.

Provision	FY23 costs
ESRD	$5.23M
DRG Add-on for NCTAP	2.1
Administrative costs	0.75
Estimated Total Cost Impact	8.08M

Assumptions specific to the estimates for each individual provision are explained below.

- *Freestanding ESRD Facilities.* We assumed that the number of TRICARE beneficiaries requiring ESRD services, the proportion of beneficiaries receiving acute versus chronic dialysis, and the number of each type of ESRD service (*e.g.,* dialysis, lab services, medical supplies, pharmaceuticals) for which TRICARE was the primary payer will remain constant. This estimate assumes paying freestanding ESRDs a facility charge for the first 120 days of dialysis equal to the base payment rate under the Medicare ESRD PPS multiplied by the 7 percent factor (for age) and the 32.7 percent factor (for the first 120 days of dialysis). This base rate would be further adjusted for locality using a wage index adjustment factor, using the same or similar adjustments as

Medicare, as appropriate. For ESRD services past 120 days of dialysis, the cost estimate assumed only the seven percent adjustment factor for age and the wage index adjustment factor locality would be applied. Any services or supplies not included in Medicare's ESRD PPS bundle would continue to be reimbursed separately by TRICARE using the applicable existing reimbursement methodology. The cost estimate of $5.23M annually was calculated by multiplying the base amount plus applicable adjustments by the number of ESRD claims for which TRICARE would be the primary payer, although this amount will increase by a small 4.5% adjustment factor annually. Additionally, we expect this provision to result in approximately $340,000 in one-time administrative costs.

• *DRG Add-on for NCTAP.* This estimate assumes an effective date for this provision of October 1, 2022 and that the PHE will end during FY23. In creating this estimate, we first analyzed TRICARE inpatient claims at private sector hospitals and identified that almost half of inpatient admissions also had a procedure code treatment with at least one of the selected therapies eligible for NCTAP add-on payments. We identified from TRICARE actual data that there were 6,600 total TRICARE COVID–19 admissions during the November 2020–June 2021 period; 3,000 of these admissions included a treatment eligible for an NCTAP and 1,400 of those treatments had a cost that exceeded the DRG payment. Therefore, we assumed 21 percent (*i.e.,* 1,400 divided by 6,000) of total TRICARE COVID–19 treatments would qualify for an NCTAP. Towards the end of the PHE, we expect fewer admissions due to decreasing hospitalization rates, and thus we assumed approximately 100 admissions per month in FY23. To estimate direct health care costs, we assumed that 21 percent of the projected TRICARE COVID–19 admissions would be paid the NCTAP of 65 percent of the amount by which the costs of the case exceed the standard DRG payment. We calculated an average NCTAP of $8,450 per case by identifying the TRICARE COVID–19 private sector cases in which the COVID–19 treatment exceeded the DRG payment, calculating the average excess cost per case, and multiplying this average excess cost by 65 percent. We multiplied the average expected NCTAP of $8,450 by the expected number of monthly TRICARE private sector hospitalizations projected to be affected by this provision and estimated $2.1M in incremental direct health care costs in FY23. We also estimated administrative start-up costs of $410,000 for the Managed Care Support Contractors to maintain a list of approved NCTAPs, identify which claims are eligible for a NCTAP, and to calculate the estimated NCTAP amount for each claim.

e. Benefits

Freestanding ESRD facilities will be positively impacted by increased reimbursement and may improve both the access to and quality of care patients receive, which will in turn benefit TRICARE beneficiaries with ESRD, a chronic, life-threatening condition. Providers rendering treatments to patients with COVID–19 will benefit by receiving higher, more adequate reimbursement for services and supplies eligible for an NCTAP. Both providers and patients requiring emergency or inpatient treatment will benefit if TRICARE beneficiaries with ESRD are treated in a freestanding ESRD facility rather than in an emergency department or inpatient hospital during any future COVID–19 surges.

f. Alternatives

DoD considered several alternatives to this IFR. The first alternative involved taking no action. Although this alternative would be cost neutral, it was rejected as not addressing the medical needs of the beneficiary population in response to the COVID–19 pandemic. Additionally, it would fail to fulfill the statutory mandate that TRICARE reimburse like Medicare, when deemed practicable.

The second alternative, related to the provisions regarding freestanding ESRD facilities, was to adopt Medicare's reimbursement system (the ESRD PPS) in total. The advantages of this option were:

• It is completely consistent with the statutory provision to pay institutional providers using the same methodology as Medicare;

• It would provide the nuanced payment differences made by Medicare on the basis of age, comorbidities, body measurements, and facility-specific adjustments for low-volume facilities and rural facilities;

• It would accommodate outlier payments and cases; and

• It contains provisions for a QIP.

However, this option was not pursued because of the very low volume of TRICARE beneficiaries who receive dialysis services from freestanding ESRDs and who are not enrolled to Medicare. Most dialysis services that are paid by TRICARE are for individuals who are both Medicare and TRICARE eligible (approximately 90% of claims for dialysis services in FY 2019 were for patients where Medicare was the primary payer). In these cases, where Medicare pays as primary, TRICARE generally provides reimbursement for the remaining patient liability, which was approximately $44 per treatment in FY 2019. Thus, for 90% of dialysis claims received by TRICARE, TRICARE is already following Medicare reimbursement methods, as the remaining patient liability is less than what would have otherwise been paid had TRICARE been the primary payer, in accordance with TRICARE regulations regarding other health insurance and dual eligibility. The cost of implementing the full ESRD PPS system is estimated to be at least $600,000 in start-up costs, plus ongoing administrative costs, to ensure all adjustments were made for each claim, plus additional special pricing software or algorithms. Additional administrative funds may be required to implement the QIP and other programs, as implemented by Medicare now or in the future. Further, implementation of the ESRD PPS would be time-consuming, taking up to a year to accomplish. In contrast, we estimate that the option provided in this IFR can be implemented relatively quickly, and for approximately $340,000 in start-up costs with lower ongoing administrative costs. Further, the flat rate will provide the ESRD facilities with predictability with regard to TRICARE payments and will reduce uncertainty and specialized coding or case-mix documentation requirements that may be required by the ESRD PPS, reducing the administrative burden on the provider. To summarize, adopting the ESRD PPS was considered, but was deemed impracticable and overly burdensome to both the Government and providers.

B. Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The ASD(HA) certified that this IFR is not subject to the flexibility analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The great majority of hospitals, freestanding ESRDs, pharmacies, and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA definition of a small business (having revenues of less than $8.0 million to $41.5 million in any one year). Individuals and States are not included in the definition of a small entity.

All of the provisions of this IFR are likely to have an economic impact on health care providers and suppliers. As its measure of significant economic impact on a substantial number of small entities, HHS uses an adverse change in revenue of more than 3 to 5 percent. While TRICARE is not required to follow this guidance in the issuance of our rules, we provide this metric for context, given that these temporary changes align with similar changes made by Medicare. Given that all provisions within this rule are likely to increase reimbursement to providers and suppliers, we find that these provisions would not have an adverse impact on revenue and, therefore, would not have a significant impact on these providers meeting the definition of small business.

Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

C. Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act, 5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

D. Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. This IFR will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

E. Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that 32 CFR part 199 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

F. Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates an IFR (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This IFR does not preempt State law or impose substantial direct costs on State and local governments.

G. Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments''

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the Federal Government and Indian tribes. This rule will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 199

Administrative practice and procedure, Claims, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Amend § 199.6 by adding paragraph (b)(4)(xxi) and revising paragraph (f)(1)(i) to read as follows:

§ 199.6 TRICARE-authorized providers.

* * * * *

(b) * * *

(4) * * *

(xxi) *Freestanding End Stage Renal Disease (ESRD) facilities.* Freestanding ESRD facilities must be Medicare certified and meet all Medicare conditions for coverage as provided in 42 CFR part 494, and be classified as freestanding ESRD facilities by Medicare, in order to be approved as TRICARE-authorized institutional providers and receive payment under the TRICARE program. State licensing are not required in cases of a freestanding ESRD facility located in a State that does not license such facilities. Freestanding ESRD facilities are not hospital-affiliated nor hospital-based and are reimbursed based on the payment methodology established in § 199.14(c). Freestanding ESRD facilities render outpatient hemodialysis or peritoneal dialysis services in the ESRD facility or in a patient's home for the treatment of ESRD and acute kidney injury (AKI).

* * * * *

(f) * * *

(1) * * *

(i) This corporate services provider class is established to accommodate individuals who would meet the criteria for status as a CHAMPUS authorized individual professional provider as established by paragraph (c) of this section but for the fact that they are employed directly or contractually by a corporation or foundation that provides principally professional services which are within the scope of the CHAMPUS benefit. With authorization of freestanding end stage renal disease (ESRD) facilities as TRICARE institutional providers under paragraph (b)(4)(xxi) of this section, corporate service provider status will not be authorized for the provision of ESRD services.

* * * * *

■ 3. Amend § 199.14 by adding paragraph (a)(1)(iv)(C) and revising paragraph (c) to read as follows:

§ 199.14 Provider reimbursement methods.

(a) * * *

(1) * * *

(iv) * * *

(C) *Additional payment for new COVID–19 Treatments.* TRICARE will adopt the Medicare New COVID–19 Treatments Add-On Payments (NCTAP) adjustment to DRGs. New COVID–19 treatments shall be reimbursed the lesser of (1) 65 percent of the operating outlier threshold for the claim or (2) 65 percent of the amount by which the costs of the case exceed the standard DRG payment for an individual treated using new COVID–19 treatments discharged during the Secretary of Health and Human Services' declared public health emergency (PHE) through the end of the FY in which the PHE terminates.

* * * * *

(c) *Reimbursement of Freestanding End Stage Renal Disease (ESRD) facilities.* (1) This paragraph (c)(1) establishes payment methods for dialysis provided by TRICARE authorized freestanding ESRD facilities. TRICARE shall reimburse a single, flat, per-session fee to TRICARE authorized freestanding ESRD facilities rendering hemodialysis or peritoneal dialysis for treatment of ESRD or AKI. The flat, per-session fee will apply to renal dialysis services furnished in the ESRD facility or in a patient's home. All renal dialysis items and services furnished in the ESRD facility or in a patient's home are included in the flat per-session rate, except for those items and services listed in paragraph (c)(1)(ii) of this section.

(i) Services included in the flat per-session rate must be furnished by an authorized TRICARE ESRD institutional provider:

(A) Institutional charges (*e.g.,* charges for facility use, use or treatment rooms, and general nursing services);

(B) Routine laboratory services related to the dialysis session;

(C) Pharmaceuticals and supplies related to the dialysis;

(D) Home dialysis support services identified at 42 CFR 494.100;

(E) Purchase and delivery of all necessary home dialysis supplies; and

(F) Dialysis training for days 1–120.

(ii) Services which may be billed separately:

(A) Evaluation and management services provided by authorized individual professional providers. These services will continue to be reimbursed using existing reimbursement systems (*e.g.,* CMAC).

(B) Drugs, supplies, and devices listed by Medicare as eligible for Transitional Drug Add-on Payment Adjustment and Transitional Add-on Payment Adjustment for New and Innovative Equipment and Supplies under the Medicare ESRD PPS. These services will continue to be reimbursed using existing reimbursement systems (*e.g.,* CMAC).

(C) Professional services, supplies, and pharmaceuticals unrelated to dialysis care (*e.g.,* if a flu shot is administered at the same time as dialysis treatment). These services will continue to be reimbursed using existing reimbursement systems (*e.g.,* CMAC).

(iii) Establishment of the flat rate:

(A) *Per session rate for treatment days 1–120.* The flat, per-session rate shall be equal to the current Medicare base rate, multiplied by the current Medicare adjustment factor applied to individuals aged 44–69 (7% for CY 22), and further multiplied by the current Medicare adjustment factor for the date of onset (32.7% for CY 2022). The Medicare factors utilized in subsequent years will be based on modifications made under 42 CFR part 413, subpart H, Medicare ESRD PPS.

(B) *Per session rate for treatment day 121 and beyond.* The flat, per-session rate shall be equal to the Medicare base rate, multiplied by the Medicare adjustment factor applied to individuals aged 44–69. The Medicare factors utilized in subsequent years will be based on modifications made under 42 CFR part 413, subpart H, Medicare ESRD PPS.

(C) *Wage adjustment.* The per-session rates in paragraphs (c)(1)(iii)(A) and (B) of this section shall be wage adjusted using the wage adjustment factors and labor-related shares published in the most recent Medicare ESRD Final Rule at the time the annual per-session rates are posted.

(D) *Annual updates.* The per session rates will be updated within 90 days of publication of new Medicare base rates, and published to the TRICARE website at *www.health.mil.*

(E) *Dialysis training.* To account for training services and supplies, dialysis training sessions will receive a home dialysis training add-on payment for day treatment days 121 and after. The training add-on payment will not apply to treatment days 1–120, as the onset adjustment factor of 32.7% is applied to the per-session rate for treatment days 1–120.

(2) The reimbursement methods established in paragraph (c)(1) of this section applies to freestanding ESRD facilities meeting the requirements established for TRICARE authorized freestanding ESRD facilities in § 199.6. For purposes of cost-sharing and copayments, treatment provided by freestanding ESRD facilities are considered outpatient specialty visits. The applicable copayments and cost-shares described in §§ 199.4 and 199.17(k)(2)(iii) shall apply. Hospital-based ESRD facilities are not subject to the provisions of this paragraph, and will continue to be reimbursed utilizing other applicable reimbursement systems (*e.g.,* the Outpatient Prospective Payment System).

* * * * *

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00381 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0002]

RIN 1625–AA00

Safety Zone; Chinese Harbor; Santa Cruz Island, California

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary safety zone for the navigable waters in Chinese Harbor of Santa Cruz Island, California. This safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by ongoing oil recovery and salvage operations relating to the grounding of a 60-foot fishing vessel in Chinese Harbor. Entry of persons or vessels into this safety zone is prohibited unless specifically authorized by the Captain of the Port Los Angeles—Long Beach (COTP), or their designated representative.

DATES: This rule is effective without actual notice from January 12, 2023 until January 23, 2023. For the purposes of enforcement, actual notice will be used from January 5, 2023, until January 12, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2023–0002 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LCDR Maria Wiener, Waterways Management, U.S. Coast Guard Sector Los Angeles—Long Beach; telephone (310) 357–1603, email *D11-SMB-SectorLALB-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
LLNR Light List Number
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) because it is impracticable. This is an emergency response to a vessel grounding and immediate action is needed to respond to potential safety hazards associated with the emergency oil recovery operations. It is impracticable to publish an NPRM because we must establish this safety zone by January 05, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to ensure the safety of persons, vessels, and the marine environment in the vicinity of Chinese Harbor during emergency oil recovery operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231) and 46 U.S.C. 70011(b)(3). The Captain of the Port Los Angeles—Long Beach (COTP) has determined that potential hazards associated with emergency oil recovery operations will be a safety concern for anyone within a 500-yard radius of the grounded fishing vessel in Chinese Harbor. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while oil recovery operations take place in the vicinity of Chinese Harbor.

IV. Discussion of the Rule

This rule establishes a safety zone from January 05, 2023, through January 23, 2023. The safety zone will cover all navigable waters from the surface to the sea floor in and around Chinese Harbor from the location of the commercial fishing vessel SPERANZA MARIE (Official Number 643138), currently on the shoreline at 34°01.87′ N, 119°36.25′ W and extending out along a 500-yard radius from the vessel. These coordinates are based on North American Datum of 1983. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or his designated representative. Sector Los Angeles—Long Beach may be contacted on VHF–FM Channel 16 or (310) 521–3801. The marine public will be notified of the safety zone via Broadcast Notice to Mariners.

Designated representative means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the COTP in the enforcement of the safety zone.

If the COTP determines that the zone need not be enforced during this entire period, the Coast Guard will announce via Broadcast Notice to Mariners when the zone will no longer be subject to enforcement.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This rule impacts an area of 500-yards during for 19 days during the month of January 2023. Vessel traffic will be able to safely transit around this safety zone, which will impact a small, designated area of Chinese Harbor, Santa Cruz Island, CA.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and COMDTINST 5090.1 (series), which guide the Coast Guard in

complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing an area extending 500-yards out from a grounded vessel in vicinity of Chinese Harbor and will last only while oil recovery operations are ongoing. It is categorically excluded from further review under paragraph L60, in Appendix A, Table 1 of DHS Instruction Manual 023–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2. 2.

■ 2. Add § 165. T11–120 to read as follows:

§ 165. T11–120 Safety Zone; Chinese Harbor; Santa Cruz Island, California.

(a) *Location.* The following area is a safety zone: All navigable waters from the surface to the sea floor in and around Chinese Harbor from the vessel SPERANZA MARIE, currently on the shoreline at 34°01.87′ N, 119°36.25′ W, and extending out along a 500-yard radius from the vessel. These coordinates are based on North American Datum of 1983.

(b) *Definitions.* As used in this section, *Designated representative* means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the Captain of the Port Los Angeles—Long Beach (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by hailing Coast Guard Sector Los Angeles—Long Beach on VHF–FM Channel 16 or calling at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from January 5, 2023, through January 23, 2023. If the COTP determines that the zone need not be enforced during this entire period, the Coast Guard will announce via Broadcast Notice to Mariners when the zone will no longer be subject to enforcement.

Dated: January 4, 2023.

R.D. Manning,

Captain, U.S. Coast Guard, Captain of the Port Sector Los Angeles—Long Beach.

[FR Doc. 2023–00488 Filed 1–11–23; 8:45 am]

BILLING CODE 9110–04–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Parts 1149 and 1158

RIN 3135–AA33

Civil Penalties Adjustment for 2023

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Final rule.

SUMMARY: The National Endowment for the Arts (NEA) is adjusting the maximum civil monetary penalties (CMPs) that may be imposed for violations of the Program Fraud Civil Remedies Act (PFCRA) and the NEA's Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. This final rule provides the 2023 annual inflation adjustments to the initial ''catch-up'' adjustments made on June 15, 2017, and reflects all other inflation adjustments made in the interim.

DATES: This rule is effective January 12, 2023.

FOR FURTHER INFORMATION CONTACT: Daniel Fishman, Assistant General Counsel, National Endowment for the Arts, 400 7th St. SW, Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

1. Background

On December 12, 2017, the NEA issued a final rule entitled ''Federal Civil Penalties Adjustments'',[1] which finalized the NEA's June 15, 2017, interim final rule entitled ''Implementing the Federal Civil Penalties Adjustment Act Improvements Act'',[2] implementing the 2015 Act (section 701 of Pub. L. 114–74), which amended the Inflation Adjustment Act (28 U.S.C. 2461 note) requiring catch-up and annual adjustments to the NEA's CMPs. The 2015 Act requires agencies make annual adjustments to its CMPs for inflation.

A CMP is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is (1) for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; (2) assessed or enforced by an agency pursuant to Federal law; and (3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

These annual inflation adjustments are based on the percentage change in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment, relative to the October CPI–U in the year of the previous adjustment. The formula for the amount of a CMP inflation adjustment is prescribed by law, as explained in Office of Management and Budget (OMB) Memorandum M–16–06 (February 24, 2016), and therefore the amount of the adjustment is not subject to the exercise of discretion by the Chairman of the National Endowment for the Arts (Chairman).

OMB has issued guidance on implementing and calculating the 2023 adjustment under the 2015 Act.[3] Per this guidance, the CPI–U adjustment multiplier for this annual adjustment is 1.07745. In its prior rules, the NEA identified two CMPs, which require adjustment: the penalty for false statements under the PFCRA and the penalty for violations of the NEA's Restrictions on Lobbying. With this rule,

[1] 82 FR 58348.

[2] 82 FR 27431.

[3] OMB Memorandum M–22–05 (December 15, 2022).

the NEA is adjusting the amount of those CMPs accordingly.

2. Dates of Applicability

The inflation adjustments contained in this rule shall apply to any violations assessed after January 15, 2023.

3. Adjustments

Two CMPs in NEA regulations require adjustment in accordance with the 2015 Act: (1) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 1149.9) and (2) the penalty associated with Restrictions on Lobbying (45 CFR 1158.400; 45 CFR part 1158, app. A).

A. Adjustments to Penalties Under the NEA's Program Fraud Civil Remedies Act Regulations

The current maximum penalty under the PFCRA for false claims and statements is currently set at $12,536. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2021 and October 2022, the CPI–U increased by a multiplier of 107.745%. Therefore, the new post-adjustment maximum penalty under the PFCRA for false statements is $12,536 × 1.07745 = $13,506.91 which rounds to $13,507 Therefore, the maximum penalty under the PFCRA for false claims and statements will be $13,507.

B. Adjustments to Penalties Under the NEA's Restrictions on Lobbying Regulations

The penalty for violations of the Restrictions on Lobbying is currently set at a range of a minimum of $22,009 and a maximum of $220,213. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2021 and October 2022, the CPI–U increased by a multiplier of 107.745%. Therefore, the new post-adjustment minimum penalty under the Restrictions on Lobbying is $22,009 × 1.07745 = $23,713.60, which rounds to $23,714 and the maximum penalty under the Restrictions on Lobbying is $220,213 × 1.07745 = $237,268.50, which rounds to $237,268. Therefore, the range of penalties under the law on the Restrictions on Lobbying shall be between $23,714 and $237,268.

Administrative Procedure Act

Section 553 of the Administrative Procedure Act requires agencies to provide an opportunity for notice and comment on rulemaking and also requires agencies to delay a rule's effective date for 30 days following the date of publication in the **Federal Register** unless an agency finds good cause to forgo these requirements. However, section 4(b)(2) of the 2015 Act requires agencies to adjust civil monetary penalties notwithstanding section 553 of the Administrative Procedure Act (APA) and publish annual inflation adjustments in the **Federal Register**. ''This means that the public procedure the APA generally requires . . . is not required for agencies to issue regulations implementing the annual adjustment.'' OMB Memorandum M–18–03.

Even if the 2015 Act did not except this final rule from section 553 of the APA, the NEA has good cause to dispense with notice and comment. Section 553(b)(B), authorizes agencies to dispense with notice and comment procedures for rulemaking if the agency finds good cause that notice and comment are impracticable, unnecessary, or contrary to public interest. The annual adjustments to civil penalties for inflation and the method of calculating those adjustments are established by section 5 of the 2015 Act, as amended, leaving no discretion for the NEA. Accordingly, public comment would be impracticable because the NEA would be unable to consider such comments in the rulemaking process.

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 (E.O. 12866) established a process for review of rules by the Office of Information and Regulatory Affairs, which is within OMB. Only ''significant'' proposed and final rules are subject to review under this Executive Order. ''Significant,'' as used in E.O. 12866, means ''economically significant.'' It refers to rules with (1) an impact on the economy of $100 million; or that (2) were inconsistent or interfered with an action taken or planned by another agency; (3) materially altered the budgetary impact of entitlements, grants, user fees, or loan programs; or (4) raised novel legal or policy issues.

This final rule would not be a significant policy change and OMB has not reviewed this final rule under E.O. 12866. The NEA has made the assessments required by E.O. 12866 and determined that this final rule: (1) will not have an effect of $100 million or more on the economy; (2) will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (3) will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; and (5) does not raise novel legal or policy issues.

Federalism (Executive Order 13132)

This final rule does not have federalism implications, as set forth in E.O. 13132. As used in this order, federalism implications mean ''substantial direct effects on the States, on the relationship between the [N]ational [G]overnment and the States, or on the distribution of power and responsibilities among the various levels of government.'' The NEA has determined that this final rule will not have federalism implications within the meaning of E.O. 13132.

Civil Justice Reform (Executive Order 12988)

This final rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988. Specifically, this final rule is written in clear language designed to help reduce litigation.

Indian Tribal Governments (Executive Order 13175)

Under the criteria in E.O. 13175, the NEA has evaluated this final rule and determined that it would have no potential effects on federally recognized Indian Tribes.

Takings (Executive Order 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This final rule will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This final rule will not impose any ''information collection'' requirements under the Paperwork Reduction Act. Under the Act, information collection means the obtaining or disclosure of facts or opinions by or for an agency by 10 or more non-Federal persons.

Unfunded Mandates Act of 1995 (Section 202, Pub. L. 104–4)

This final rule does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year.

National Environmental Policy Act of 1969 (5 U.S.C. 804)

The final rule will not have a significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996 (Sec. 804, Pub. L. 104–121)

This final rule would not be a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible website. All information about the NEA required to be published in the **Federal Register** may be accessed at *https://www.arts.gov.* This Act also requires agencies to accept public comments on their rules ''by electronic means.'' See heading ''Public Participation'' for directions on electronic submission of public comments on this final rule.

Finally, the E-Government Act requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The website *https://www.regulations.gov* contains electronic dockets for the NEA's rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010 (5 U.S.C. 301)

Under this Act, the term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this final rule has been written in plain and clear language so that it can be used and understood by the public, the NEA has modeled the language of this final rule on the Federal Plain Language Guidelines.

Public Participation (Executive Order 13563)

The NEA encourages public participation by ensuring its documentation is understandable by the general public, and has written this final rule in compliance with Executive Order 13563 by ensuring its accessibility, consistency, simplicity of language, and overall comprehensibility.

List of Subjects in 45 CFR Parts 1149 and 1158

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Lobbying, Penalties.

For the reasons stated in the preamble, the NEA amends 45 CFR chapter XI, subchapter B, as follows:

PART 1149—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 1. The authority citation for part 1149 continues to read as follows:

Authority: 5 U.S.C. App. 8G(a)(2); 20 U.S.C. 959; 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

§ 1149.9 [Amended]

■ 2. Amend § 1149.9 in paragraph (a)(1) by removing ''$12,536'' and adding in its place ''$13,507''.

PART 1158—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1158 continues to read as follows:

Authority: 20 U.S.C. 959; 28 U.S.C. 2461; 31 U.S.C. 1352.

§ 1158.400 [Amended]

■ 4. Amend § 1158.400 in paragraphs (a), (b), and (e) by:
■ a. Removing ''$22,009'' and adding in its place ''$23,714'' each place it appears.
■ b. Removing ''$220,213'' and adding in its place ''$237,268'' each place it appears.

Appendix A to Part 1158 [Amended]

■ 5. Amend appendix A to part 1158 by:
■ a. Removing ''$22,009'' and adding in its place ''$23,714'' each place it appears.
■ b. Removing ''$220,213'' and adding in its place ''$237,268'' each place it appears.

Dated: January 9, 2023.

Bonita Smith,

Director of Administrative Services and Contracts, National Endowment for the Arts.

[FR Doc. 2023–00501 Filed 1–11–23; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2020–0082; FF09E22000 FXES1113090FEDR 223]

RIN 1018–BD97

Endangered and Threatened Wildlife and Plants; Reclassifying Fender's Blue Butterfly From Endangered to Threatened With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), are reclassifying Fender's blue butterfly (*Icaricia icarioides fenderi*) from endangered to threatened under the Endangered Species Act of 1973, as amended (Act). Fender's blue butterfly is endemic to the Willamette Valley of Oregon. This action is based on our evaluation of the best available scientific and commercial information, which indicates that the species' status has improved such that it is not currently in danger of extinction throughout all or a significant portion of its range, but that it is still likely to become so in the foreseeable future. We are also finalizing a rule issued under section 4(d) of the Act that provides for the conservation of the species.

DATES: This rule is effective February 13, 2023.

ADDRESSES: The proposed rule and this final rule, the comments we received on the proposed rule, and supporting documents are available at *https://www.fws.gov/oregonfwo* and at *https://www.regulations.gov* under Docket No. FWS–R1–ES–2020–0082.

FOR FURTHER INFORMATION CONTACT: Craig Rowland, Acting State Supervisor, U.S. Fish and Wildlife Service, Oregon

Fish and Wildlife Office, telephone 503–319–9488. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species may warrant reclassification from endangered to threatened if it no longer meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range). Fender's blue butterfly is listed as endangered, and we are reclassifying Fender's blue butterfly as threatened (*i.e.,* ''downlisting'' the species) because we have determined it is not currently in danger of extinction. Reclassifying a species as a threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process.

What this document does. This rule reclassifies Fender's blue butterfly from endangered to threatened, with a rule issued under section 4(d) of the Act (a ''4(d) rule''), based on the species' current status, which has been improved through implementation of conservation actions.

The basis for our action. Under the Act, we may determine that a species is an endangered species or a threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We may downlist a species listed as an endangered species if the best available commercial and scientific data indicate the species no longer meets the Act's definition of an endangered species. We have determined that Fender's blue butterfly is no longer in danger of extinction and, therefore, does not meet the Act's definition of an endangered species, but is still affected by the following current and ongoing threats to the extent that the species meets the Act's definition of a threatened species: the loss, degradation, and fragmentation of prairie and oak savannah habitats, including conversion to non-habitat land uses (*e.g.,* urban development, agriculture); elimination of natural disturbance regimes; encroachment into prairie habitats by shrubs and trees due to fire suppression; insecticides and herbicides; and invasion by nonnative plants.

We are promulgating a 4(d) rule. We are finalizing a 4(d) rule that prohibits all intentional take of Fender's blue butterfly and specifically allows incidental take by landowners or their agents while conducting management for the creation, restoration, or enhancement of short-stature native upland prairie or oak savannah conditions as a means to provide protective mechanisms to our State and private partners so that they may continue with certain activities that will facilitate the conservation and recovery of the species.

Previous Federal Actions

On June 23, 2021, we published in the **Federal Register** (86 FR 32859) a proposed rule to reclassify Fender's blue butterfly from an endangered species to a threatened species under the Act with a 4(d) rule. Please refer to that proposed rule for a detailed description of previous Federal actions concerning this species. The proposed rule and supplemental documents are provided at *https://www.regulations.gov* under Docket No. FWS–R1–ES–2020–0082.

Summary of Changes From the Proposed Rule

In preparing this final rule, we reviewed and fully considered all comments we received from peer reviewers and the public during the comment period on the proposed rule to downlist Fender's blue butterfly (86 FR 32859; June 23, 2021). We made minor, nonsubstantive changes and corrections throughout this document in response to those comments. Additionally, after further internal review and consultation with partners, in this rule, we amend the proposed 4(d) rule to allow manual removal of invasive and/or nonnative plant species during Fender's blue butterfly's flight period (April 15 to June 30). The long-term conservation benefits to the species of allowing this type of work during the flight season outweigh the potential negative effects to any individuals on the landscape at that moment because removing invasive plants improves habitat suitability for host lupine plants, which improves butterfly viability. Overall, the information we received during the proposed rule's comment period did not change our determination that Fender's blue butterfly is no longer in danger of extinction throughout all or a significant portion of its range and, therefore, does not meet the Act's definition of an endangered species but that it is still likely to become endangered in the foreseeable future.

Lastly, during development of this final rule, we identified an error in the entry for Kincaid's lupine (*Lupinus sulphureus* spp. *kincaidii;* Fender blue butterfly's primary host plant) in the List of Endangered and Threatened Plants in title 50 of the Code of Federal Regulations (CFR) at § 17.12(h) (50 CFR 17.12(h)). Therefore, we are making one nonsubstantive, editorial correction to the date of the listing rule provided in the ''Listing citations and applicable rules'' column in that entry. That column of the List of Endangered and Threatened Plants is nonregulatory in nature and is provided for informational and navigational purposes only (see 50 CFR 17.12(f)). This correction is simply for the purposes of accuracy and clarity and does not alter the species' status or protections under the Act; an action changing this species' status or protections under the Act would require a separate rulemaking following the procedures set forth at 50 CFR part 424.

Supporting Documents

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

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of 12 appropriate and independent specialists with knowledge of the biology and ecology of Fender's blue butterfly or its habitat regarding the SSA report. We received feedback from 5 of the 12 peer reviewers contacted. The purpose of peer review is to ensure that our determination regarding the status of the species under the Act is based on scientifically sound data, assumptions, and analyses. In preparing the proposed rule, we incorporated the results of these reviews, as appropriate, into the final SSA report, which is the foundation for this final rule.

I. Reclassification Determination

Background

Status Assessment for Fender's Blue Butterfly

We prepared an SSA report for Fender's blue butterfly (USFWS 2020, entire) that presents a thorough review of the taxonomy, life history, ecology, and overall viability of Fender's blue butterfly. In this final rule, we present only a summary of the key results and conclusions from the SSA report; the full report is available at *https://www.regulations.gov* under Docket No. FWS–R1–ES–2020–0082.

Fender's blue butterfly is found only in the prairie and oak savannah habitats of the Willamette Valley of Oregon. Adult Fender's blue butterflies are quite small, having a wingspan of approximately 25 millimeters (mm) (1 inch (in)). The upper wings of males are brilliant blue in color with black borders and basal areas, whereas the upper wings of females are brown.

Fender's blue butterfly relies primarily upon a relatively uncommon lupine plant, the Kincaid's lupine (*Lupinus sulphureus* ssp. *kincaidii*), also endemic to the Willamette Valley and listed as a threatened species under the Act (65 FR 3875; January 25, 2000), as the host plant for the larval (caterpillar) life stage (Hammond and Wilson 1993, p. 2). The only other host plants known for Fender's blue butterflies are *Lupinus arbustus* (longspur lupine) and *Lupinus albicaulis* (sickle-keeled lupine) (Schultz *et al.* 2003, pp. 64–67). Females lay single eggs, up to approximately 350 eggs in total, on the underside of the leaves of one of these three lupine species. Eggs hatch from mid-May to mid-July, and the larvae feed on the lupine until the plants senesce and the larvae go into diapause for the fall and winter. The larvae break diapause in early spring, feed exclusively on the host lupine, and metamorphose into adults, emerging as butterflies between mid-April and the end of June. Adult Fender's blue butterflies only live 7 to 14 days, and feed exclusively on nectar from flowering plants (Schultz 1995, p. 36; Schultz *et al.* 2003, pp. 64–2012;65).

Given its short adult lifespan, Fender's blue butterfly has limited dispersal ability. Butterflies are estimated to disperse approximately 0.75 kilometers (km) (0.5 miles (mi)) if they remain in their natal lupine patch, and approximately 2 km (1.2 mi) if they disperse between lupine patches (Schultz 1998, p. 290).

Recovery Planning and Recovery Criteria

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the Lists of Endangered and Threatened Wildlife and Plants.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species, or to delist a species, is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all of the criteria in a recovery plan being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently, and that the species is robust enough, that it no longer meets the Act's definition of an endangered species or a threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery plan. Parties seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan. Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, follow all of the guidance provided in a recovery plan.

In 2010, we finalized the Recovery Plan for the Prairie Species of Western Oregon and Southwestern Washington (recovery plan), which applied to a suite of endemic species including Fender's blue butterfly (USFWS 2010, entire). The objective of the recovery plan is to achieve viable populations of the listed species distributed across their historical ranges in a series of interconnected populations. The historical range of Fender's blue butterfly is considered to be the Willamette Valley, which consists of nine counties in Oregon, because that is where the prairie plants on which the species relies for its survival and reproduction are distributed. The recovery plan objective was to be accomplished by establishing metapopulations of Fender's blue butterfly within restored prairie reserves across the geographic range (USFWS 2010, p. v). The recovery plan set abundance and distribution goals for Fender's blue butterfly by delineating three recovery zones (Salem, Corvallis, and Eugene) encompassing the historical range of the species in the Willamette Valley. The two downlisting criteria established for Fender's blue butterfly are as follows:

(1) Each recovery zone has one functioning network (a metapopulation with several interacting subpopulations, as defined in the recovery plan) with a minimum count of 200 butterflies, distributed among three subpopulations, for at least 10 years; in addition to this network, there must be a second functioning network or two independent populations with butterflies present each year in each recovery zone. Downlisting goals were set at a 90 percent probability of persistence for 25 years.

(2) Two functioning networks or one functioning network and two independent populations in each zone must be protected and managed for high-quality prairie habitat. The plan described high-quality prairie as habitat consisting of a diversity of native, non-woody plant species, various nectar plants that bloom throughout the flight season of Fender's blue butterfly, low frequency of nonnative plant species and encroaching woody species, and essential habitat elements (*e.g.,* nest sites and food plants) for native pollinators. At least one of the larval host plant species, *Lupinus sulphureus* ssp. *kincaidii, L. arbustus,* or *L. albicaulis,* must be present.

All three recovery zones have at least two metapopulations (see Table 1, below). The Baskett, Wren, West Eugene, and Willow Creek metapopulations have had more than

200 butterflies each year for at least 10 consecutive years and are therefore meeting the first (recovery) downlisting criterion. In addition, the Gopher Valley, Oak Ridge, Butterfly Meadows, Greasy Creek, Lupine Meadows, Coburg Ridge, and Oak Basin metapopulations have had butterflies present for at least 10 years although they have not exceeded the count of 200 butterflies. Thus, the species is currently meeting the first criterion for downlisting. That said, concern remains for the Corvallis recovery zone in the middle of the species' range, with metapopulations that are generally less robust and more vulnerable to deteriorating in condition over time.

The species is also currently meeting the second (habitat management and protection) downlisting criterion. In each recovery zone, there are at least three metapopulations with greater than 75 percent of their habitat protected (see Table 1, below). Managers of protected land either have a habitat management plan in place or are in the process of creating plans to maintain prairie quality for Fender's blue butterfly. Although the recovery plan has identified the number of nectar species and sufficient amount of nectar to make up high-quality habitat, the metapopulations currently do not meet the strict definition spelled out in the recovery plan. However, we find that for the species to achieve recovery, it does not need to fulfill this part of the second downlisting criterion as laid out in the recovery plan. We will discuss this in greater detail below.

TABLE 1—FENDER'S BLUE BUTTERFLY DISTRIBUTION, ABUNDANCE, AND PROTECTION ACROSS RECOVERY ZONES

Metapopulation	At least 200 butterflies for 10 years	Number consecutive years ≥200 butterflies	Time period with ≥200 butterflies	Butterflies present for past 10 years	Habitat protection (%)
Salem Recovery Zone:					
Baskett	Yes	18	2000–2018	Yes	100
Gopher Valley	No	7	2012–2018	Yes	100
Hagg Lake	No	8	2011–2018	No	100
Moores Valley	No	0		No	100
Oak Ridge	No	6	2013–2018	Yes	35
Turner Creek	No	0		No	45
Corvallis Recovery Zone:					
Butterfly Meadows	No	6	2003–2009	Yes	24
Finley	No	3	2016–2018	No	100
Greasy Creek	No	0		Yes	4
Lupine Meadows	No	6	2003–2009	Yes	100
Wren	Yes	12	2006–2018	Yes	93
Eugene Recovery Zone:					
Coburg Ridge	No	2	2006–2007	Yes	77
Oak Basin	No	0		Yes	100
West Eugene	Yes	15	2003–2018	Yes	100
Willow Creek	Yes	25	1993–2018	Yes	100

While Fender's blue butterfly meets downlisting criteria, the species does not meet delisting criteria. The three delisting criteria established for Fender's blue butterfly are as follows:

(1) Each of the three recovery zones has a combination of functioning networks and independent populations such that the probability of persistence is 95 percent over the next 100 years; annual population surveys in each functioning network and independent population must contain at least the minimum number of adult butterflies as described in Table IV–2 in the recovery plan (Table 2) for 10 consecutive years.

(2) Sites supporting populations of Fender's blue butterflies considered in delisting criterion (1) must be protected and managed for high-quality prairie habitat as described in the recovery plan.

(3) Monitoring of populations following delisting will verify the ongoing recovery of the species, provide a basis for determining whether the species should be again placed under the protection of the Act, and provide a means of assessing the continuing effectiveness of management actions.

TABLE 2—DISTRIBUTION AND ABUNDANCE GOALS FOR DELISTING FENDER'S BLUE BUTTERFLY

[Table is taken from recovery plan Table IV–2]

Delisting Goals

Delisting goals are set at a 95% probability of persistence for 100 years. Each row below represents a combination of functioning networks and independent populations within a recovery zone. If each of the three recovery zones meets the criteria in one row below, the species would be projected to have a 95 percent probability of persistence for 100 years. Attainment of these population targets, together with the criteria for distribution, habitat quality and management described in the text, would indicate that the species has recovered and could be considered for delisting. Note that the minimum population size in the table represents the minimum population count in a network or independent population in each of 10 consecutive years. The average population size in a network or independent population corresponding to these minima would be substantially larger.

Number of functioning networks (FN) and independent populations (IP) in a recovery zone	Minimum population size per network over 10 years	Minimum population size per independent population over 10 years
2 FN + 0 IP	4,500	n/a
2 FN + 2 IP	800	3,000
2 FN + 2 IP	1,000	1,000
2 FN + 2 IP	1,500	500
2 FN + 3 IP	1,000	700
2 FN + 3 IP	1,500	300
3 FN + 0 IP	1,000	n/a
3 FN + 1 IP	800	200
3 FN + 2 IP	500	250
4 FN + 0 IP	400	n/a

Delisting may be achieved with a variety of combinations of metapopulations and independent populations in each recovery zone as detailed in the recovery plan. Currently, each recovery zone has at least four metapopulations, meaning that each metapopulation would need a minimum of 400 butterflies in each of 10 consecutive years to meet delisting criterion 1 (Table 2). At this time, none of the recovery zones meet this criterion. For delisting criterion 2, many of the sites for Fender's blue butterfly have protection in place. Currently, we have three habitat conservation plans (HCPs), 17 safe harbor agreements (SHAs), and many Partners for Fish and Wildlife (PFW) agreements in place. These agreements help maintain the species' habitat through prairie habitat restoration and enhancement. Overall, there is currently management and protection for Fender's blue butterfly habitat. However, these sites do not possess a sufficient number of butterflies to meet delisting criterion 1. Additionally, we also do not have post-delisting monitoring plans or agreements in place to assure habitat management will continue for this conservation-reliant species per delisting criterion 3. Therefore, although there are management plans in place for the species' habitat, because there are not a sufficient number of butterflies within the metapopulations and there are no long-term agreements for continual habitat management, this species does not meet the threshold for delisting.

The extinction thresholds underlying downlisting and delisting criteria were derived from a census-based population viability analysis (PVA) conducted shortly after we listed Fender's blue butterfly (USFWS 2010, pp. IV–29–IV–31, IV–34). However, for the reasons described below, we are conducting a new PVA using an individual-based population model and reevaluating the delisting recovery criteria in light of the best scientific data that are now available. As described in the SSA report, the PVA used to develop the initial recovery criteria relied upon several assumptions that, based on our improved understanding of the ecology of the butterfly, we now know are outdated and require modification. We also have an additional decade of monitoring data and increased confidence in the accuracy of a standardized monitoring protocol implemented in 2012 (USFWS 2020, pp. 47–52). Furthermore, the recovery plan set specific targets for the abundance and diversity of nectar species required to be of high-habitat quality to support Fender's blue butterfly, as well as a minimum density of lupine leaves (the host plant for the species' larval life stage). For various reasons detailed in the SSA report, including a limited dataset and conflicting results regarding the correlation between these resources and densities of Fender's blue butterfly, these targets are also now in question (USFWS 2020, pp. 65–67).

Because we are in the process of reevaluating the current recovery criteria for Fender's blue butterfly as presented in the recovery plan for the species (USFWS 2010, pp. IV–29–IV–31 and IV–34), we did not assess the status of Fender's blue butterfly relative to all of the existing habitat targets. However, in our SSA, we did consider the status of the species relative to the overarching goals of protecting existing populations, securing the habitat, and managing for high-quality prairie habitats; all of these were downlisting and delisting considerations described in the recovery plan (USFWS 2010, p. IV–9). In addition, our evaluation under the SSA framework (USFWS 2016) reflects the fundamental concepts captured in the recovery plan strategy of achieving multiple populations with connectivity between them distributed across the historical range of the species. For example, we find that the minimum number threshold from the recovery plan remains valid because population size targets based on minimum population size eliminate confounding variation from stochastic events that may not reflect demographic changes. In other words, averages may be artificially high or low if there is one unusual weather year.

Additionally, we partially rely upon the habitat targets for nectar species for evaluating the status of the species. We acknowledge that the species needs a variety of different species as nectar sources. The recovery plan identifies the quantity of nectar needed per area and

the number of native nectar species. However, we do not find that the quantity defined in these recovery plan habitat targets is needed for the recovery of the species as we have seen sites maintain viability despite not meeting the target (*i.e.,* there are sites that are able to maintain viability with lower quantities of nectar and nonnative nectar species). We also explicitly considered the quality of the prairie habitat, using the recommended guidelines for prairie quality and nectar availability in the recovery plan, and the management and protection status of butterfly occurrences (see, *e.g.,* USFWS 2010, pp. IV–13, IV–29–IV–31).

Taxonomy

Fender's blue butterfly was first described in 1931 as *Plebejus maricopa fenderi* based on specimens collected near McMinnville, Oregon, in Yamhill County (Macy 1931, pp. 1–2). Fender's blue butterfly was classified in the Lycaenidae family within the subfamily Polyommatinae as a subspecies of Boisduval's blue butterfly based on adult characters and geographic distribution. The species *maricopa* was considered a synonym of the species *icarioides* and was later determined to be a member of the genus *Icaricia,* rather than the genus *Plebejus.* The worldwide taxonomic arrangement of the subtribe Polyommatina (which contains blue butterflies) was fluctuating between *Plebejus* and *Icaricia* until it was revised in 2013 as *Icaricia.* The current scientific name, *Icaricia icarioides fenderi,* was validated by the Integrated Taxonomic Information System (ITIS) and experts at the McGuire Center for Lepidoptera and Biodiversity, a division of the Florida Museum of Natural History at the University of Florida (see USFWS 2020, p. 15, for all citations).

Population Terminology

In some instances, populations that are spatially separated interact, at least on occasion, as individual members move from one population to another. In the case of Fender's blue butterfly, the clear delineation of discrete populations and subpopulations is challenging because of the uncertainty regarding the extent to which individuals at known sites interact with each other or with other individuals on the landscape of adjacent private lands that are inaccessible to researchers and remain unsurveyed. Thus, in the SSA report and in this document, we use the term ''metapopulation'' as a rough analog to the more familiar term ''population.'' We use the term metapopulation to describe groups of sites occupied by Fender's blue butterflies that are within 2 km (1.2 mi) of one another and not separated by barriers. We chose this distance because it is the estimated dispersal distance of Fender's blue butterfly (Schultz 1998, p. 290). We assume that butterflies within a metapopulation are capable of at least occasional interchange of individuals. We do not anticipate that metapopulations across the range of the species will interact with one another given the distance and structural barriers between them. The definition of metapopulation used here and in the SSA report is not the same as the ''functioning network'' defined in the recovery plan. The recovery plan defines a functioning network as three or more potentially interacting subpopulations that are no more than 2 km (1.2 mi) from one another. This definition is problematic because it requires knowledge of subpopulation boundaries, and it excludes metapopulations comprised of only two subpopulations. It also included a requirement for a minimum patch size of 18 hectares (ha) (44 acres (ac)) for each network, which we now know is not necessary, as the butterfly can thrive in much smaller patch sizes. Further information regarding these definitions is detailed in the SSA report (USFWS 2020, pp. 41–42).

Locations containing Fender's blue butterfly occur across multiple land ownerships, have varying degrees of habitat protection, and are managed in different ways. We use the term ''site'' to identify a management unit or land ownership designation; multiple sites may therefore comprise a single metapopulation. An ''independent group'' of Fender's blue butterfly refers to occupied sites that are more than 2 km (1.2 mi) from another occupied site and/or are separated by barriers from other occupied sites such that butterflies are unable to interact.

Historical and Current Abundance and Distribution

Due to the limited information collected on this subspecies prior to its description in 1931, we do not know the precise historical (prior to 1989) distribution of Fender's blue butterfly. Only a limited number of collections were made between the time of the subspecies' discovery and its presumed last observation on May 23, 1937, in Benton County, Oregon, leading the scientific community to assume the species was extinct (Hammond and Wilson 1993, p. 3).

Fender's blue butterfly was rediscovered in 1989, at the McDonald State Forest, Benton County, Oregon, on the uncommon plant, Kincaid's lupine. Surveys since its rediscovery indicate that the current distribution, which is identical to its historical distribution, of Fender's blue butterfly is restricted to the Willamette Valley in Benton, Lane, Linn, Polk, Yamhill, and Washington Counties in Oregon.

While we do not know the precise historical abundance or distribution of Fender's blue butterfly, at the time the species was listed as endangered in 2000, we knew of approximately 3,391 individuals on 32 sites (USFWS 2020, p. 35). By retroactively applying the criteria for our refined population terminology, we calculate there would have been 12 metapopulations of Fender's blue butterfly distributed across approximately 165 ha (408 ac) of occupied prairie in four counties at the time of listing (see Table 3, below). Those numbers have now grown across all three recovery zones identified for Fender's blue butterfly (see *Recovery Planning and Recovery Criteria,* above) as a result of population expansion, discovery, and creation; currently, 15 Fender's blue butterfly metapopulations and 6 independent groups are distributed throughout the Willamette Valley in Benton, Lane, Linn, Polk, Washington, and Yamhill Counties. There are 137 total sites, containing more than 13,700 Fender's blue butterfly individuals, throughout an area totaling approximately 344 ha (825 ac) of occupied prairie habitat with a broad range of land ownerships and varying degrees of land protection and management (USFWS 2020, pp. 52–53). In 2016, the estimated number of Fender's blue butterflies hit a presumed all-time high of nearly 29,000 individuals (USFWS 2020, p. 71). Maps showing the historical and current distribution of Fender's blue butterfly throughout its range are available in the SSA report (USFWS 2020, pp. 51, 54–56).

TABLE 3—COMPARISON OF FENDER'S BLUE BUTTERFLY ABUNDANCE AND DISTRIBUTION BETWEEN TIME OF LISTING 2000 AND SURVEY RESULTS FROM 2018

[USFWS 2020, Table 3.4]

	Listed as endangered (2000)	Survey results as of 2018 *
Number of metapopulations	12	15.
Number of independent groups	0	6.
Total abundance (number of individuals)	3,391	13,700.
Number of sites	32	137.
Area of prairie habitat known to be occupied, in hectares (acres)	165 (408)	344 (825).
Counties known to be occupied	4 (Benton, Lane, Polk, and Yamhill).	6 (Benton, Lane, Linn, Polk, Washington, and Yamhill).

* Note this is not a total count, as not all sites can be surveyed every year; thus, the number of individuals reported in 2018 is an underestimate of the rangewide abundance.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for threatened and endangered species. In 2019, jointly with the National Marine Fisheries Service, the Service issued final rules that revised the regulations in 50 CFR parts 17 and 424 regarding how we add, remove, and reclassify threatened and endangered species and the criteria for designating listed species' critical habitat (84 FR 45020 and 84 FR 44753; August 27, 2019). At the same time the Service also issued final regulations that, for species listed as threatened species after September 26, 2019, eliminated the Service's general protective regulations automatically applying to threatened species the prohibitions that section 9 of the Act applies to endangered species (collectively, the 2019 regulations).

As with the proposed rule, we are applying the 2019 regulations for this final rule because the 2019 regulations are the governing law just as they were when we completed the proposed rule. Although there was a period in the interim—between July 5, 2022, and September 21, 2022—when the 2019 regulations became vacated and the pre-2019 regulations therefore governed, the 2019 regulations are now in effect and govern listing and critical habitat decisions (*see Center for Biological Diversity* v. *Haaland,* No. 4:19–cv–05206–JST, Doc. 168 (N.D. Cal. July 5, 2022) (*CBD* v. *Haaland*) (vacating the 2019 regulations and thereby reinstating the pre-2019 regulations)) and *In re: Cattlemen's Ass'n,* No. 22–70194 (9th Cir. Sept. 21, 2022) (staying the vacatur of the 2019 regulations and thereby reinstating the 2019 regulations until a pending motion for reconsideration before the district court is resolved)).

Our analysis for this decision applied the 2019 regulations. However, given that litigation remains regarding the court's vacatur of the 2019 regulations, we also undertook an analysis of whether the decision would be different if we were to apply the pre-2019 regulations. We concluded that the decision would have been the same if we had applied the pre-2019 regulations. The analyses under both the pre-2019 regulations and the 2019 regulations are included in the decision file for this decision.

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

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects. We consider these same five factors in downlisting a species from endangered to threatened (50 CFR 424.11(c) and (d)).

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

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

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations

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

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

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be reclassified as a threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the full SSA report, which may be found at Docket No. FWS–R1–ES–2020–0082 on *https://www.regulations.gov.*

To assess Fender's blue butterfly viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

Summary of Biological Status and Factors Affecting Fender's Blue Butterfly

In this discussion, we review the biological condition of the species and its resource needs, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability.

Summary of Species Needs

Table 4 summarizes the key ecological resources required by individual Fender's blue butterflies at various life stages, as presented in the SSA report (from USFWS 2020, Table 2.4).

TABLE 4—RESOURCE NEEDS OF FENDER'S BLUE BUTTERFLY AT THE LEVEL OF THE INDIVIDUAL BY LIFE STAGE

Life stage	Timeline	Resource needs
Egg	Mid-April through June	• Kincaid's lupine, longspur lupine, or sickle-keeled lupine.
Larva (including diapause)	Mid-May through early April (including diapause).	• Kincaid's lupine, longspur lupine, or sickle-keeled lupine.
Pupa	April through May	• Kincaid's lupine, longspur lupine, or sickle-keeled lupine.
Adult butterfly	Mid-April through June	• Early seral upland prairie, wet prairie, or oak savannah habitat with a mosaic of low-growing grasses and forbs, an open canopy, and a disturbance regime maintaining the habitat. • Kincaid's lupine, longspur lupine, or sickle-keeled lupine. • Variety of nectar flowers.

Based on our evaluation as detailed in the SSA report, we determined that for the species to be highly resilient, Fender's blue butterfly metapopulations need an abundance of lupine host plants and nectar plants within prairie patches of sufficient size, with habitat heterogeneity and minimal amounts of invasive plants and woody vegetation. Healthy metapopulations would also contain individuals distributed across multiple groups (redundancy) in lupine patches that are in close proximity of one another. Ideally, at the species level, highly resilient metapopulations would be distributed across the historical range of the species (redundancy and representation) and have multiple ''stepping stone'' habitats for connectivity across the landscape (redundancy and representation) (USFWS 2020, p. 33). A ''stepping stone'' habitat is a prairie patch that provides both lupine and nectar plants, and occurs in an area with barrier-free movement for butterflies; such areas are likely too small to support a subpopulation or metapopulation of butterflies over the long term, but they provide sufficient resources to support multi-generational movement of individuals between larger areas of habitat. The key resources and circumstances required to support resiliency in Fender's blue butterfly metapopulations, and redundancy and representation at the species level, are identified below in Table 5 (from USFWS 2020, Table 2.5). Based on the

biology of the species and the information presented in the recovery plan, as synthesized in the SSA report, these are the characteristics of Fender's blue butterfly metapopulations that we conclude would facilitate viability in the wild over time (USFWS 2020, pp. 31–34).

TABLE 5—RESOURCES AND CIRCUMSTANCES NEEDED TO SUPPORT RESILIENCY IN FENDER'S BLUE BUTTERFLY METAPOPULATIONS AND REDUNDANCY AND REPRESENTATION AT THE SPECIES LEVEL, BASED ON THE CONDITIONS REQUIRED FOR THE SPECIES AS DESCRIBED IN THE RECOVERY PLAN

[USFWS 2020, Table 2.5]

Metapopulation needs		
Habitat quantity/quality	Abundance	Distribution
Abundant density of lupine host plants	Minimum of 200 adult butterflies per metapopulation for 10 years.	0.5–1.0 km (0.3–0.6 mi) between lupine patches within a metapopulation.
A diversity of nectar plant species throughout the flight season	Consists of multiple sites with butterflies.	Across the species' range.
Prairie relatively free of invasive plants and woody vegetation, especially those that prevent access to lupine or nectar (*e.g.,* tall grasses).	Not applicable (n/a)	Stepping stone prairie patches with lupine and/or nectar to facilitate connectivity within a metapopulation.
Patch sizes of at least 6 ha (14.8 ac) per metapopulation	n/a	n/a.
Heterogeneity of habitat, including varying slopes and varying microtopography.	n/a	n/a.

Factors Affecting the Viability of the Species

At the time we listed Fender's blue butterfly as endangered (65 FR 3875; January 25, 2000), we considered the loss, degradation, and fragmentation of native prairie habitat in the Willamette Valley to pose the greatest threat to the species' survival. Forces contributing to the loss of the little remaining native prairie included urban development (named as the largest single factor threatening the species at the time); agricultural, forestry, and roadside maintenance activities, including the use of herbicides and insecticides; and heavy levels of grazing. In addition, habitat loss through vegetative succession from prairie to shrubland or forest resulting from the absence of natural disturbance processes, such as fire, was identified as a long-term threat, and the invasion of prairies by nonnative plants was identified as a significant contributor to habitat degradation. Although predation is a natural condition affecting the species, the listing rule considered that predation may significantly impact remaining populations of Fender's blue butterfly because they had been reduced to such low numbers. Small population size was also identified as posing a threat of extinction due to the increased risk of loss through random genetic or demographic factors, especially in fragmented or localized populations. Small population size is not a threat in and of itself; however, it may exacerbate the impacts from threats. Christmas tree farms were also identified as a threat due to habitat loss. However, we have not found Christmas tree farming has negatively affected the species or its habitat since 1992. Similarly, we have not found a population-level effect to the species from non-herbicide road maintenance by private landowners. We developed a state-wide Habitat Conservation Plan to address all routine maintenance activities along rights-of-ways adjacent to roads managed by the Oregon Department of Transportation. While insect herbivory on host lupine plants was considered a possible indirect threat to Fender's blue butterfly, this threat has not manifested in reduced butterfly reproduction or survival. The possibility that the rarity of Fender's blue butterfly could render it vulnerable to overcollection by butterfly enthusiasts was cited as a potential threat. However, we have no evidence that collection of Fender's blue butterfly has occurred either before or since listing. Finally, the listing rule pointed to the inadequacies of existing regulatory mechanisms to protect Fender's blue butterfly or its habitat, especially on lands under private ownership. With assistance from partner organizations, we have undertaken steps to manage and protect butterfly habitat on both private and public lands, which includes Habitat Conservation Plans for roadside maintenance and other activities, Safe Harbor Agreements, Partners for Fish and Wildlife agreements, and individual site management plans. Threats not recognized or considered at the time of listing, but now evaluated, include the potential impacts resulting from climate change (Factor E).

Habitat Loss, Degradation, and Fragmentation

As discussed in the SSA report, habitat loss from land conversion for agriculture and urbanization, and from heavy grazing (Factor A), has decreased since the time of listing due to land protection efforts and management agreements; these activities are still occurring at some level, especially in Lane and Polk Counties, but not at the scope and magnitude seen previously (USFWS 2020, pp. 57–59; see also *Conservation Measures,* below). Habitat degradation due to invasion of prairies by nonnative, invasive plants and by woody species (Factors A and E) has decreased in many metapopulations due to active management using herbicides, mowing, and prescribed fire to maintain or restore prairie habitats, as well as augmentation of Kincaid's lupine and nectar species (USFWS 2020, appendix C; see also *Conservation Measures,* below). Some nonnative plants, such as the tall oatgrass, can be difficult to effectively manage, thereby requiring development of new methods to combat these invasive plants. While threats have been reduced across the species' range, ongoing habitat management is required to maintain these improvements over time and will be critical to the viability of Fender's blue butterfly. In addition, habitat degradation due to invasion of prairies by nonnative, invasive plants and by woody species, which may potentially be exacerbated in the future by the effects of climate change, remains a significant and ongoing threat at sites

that are not managed for prairie conditions.

The overall number of sites supporting Fender's blue butterfly has increased across all land ownership categories since listing, as has the percentage of sites with habitat management. Although the percentage of sites that are protected has remained roughly the same (just over 70 percent) relative to the time of listing, we now have a far greater number of sites that are protected (101 out of 137 sites protected, compared to 23 of 32 sites at the time of listing). More importantly, there is a significant increase in the proportion of sites that are actively managed by private and partner agencies to maintain or restore prairie habitat. At listing, only 31 percent of known sites (10 of 32) and only 44 percent of protected sites (10 of 23) were managed for prairie habitat to any degree. At present, 74 percent of current sites (101 of 137) and 100 percent of protected sites (101 of 101) are managed for prairie habitat. In addition, three HCPs, 17 SHAs, and a programmatic agreement for non-Federal landowners are now in place to undertake proactive conservation and restoration actions to benefit native prairie and minimize and mitigate effects to Fender's blue butterfly (see *Conservation Measures*). These projects will help maintain and may improve or expand the species' habitat. This significant increase in the number of sites protected and managed to benefit Fender's blue butterfly and its habitat represents substantial progress since listing in addressing the threat of habitat loss and degradation and demonstrates the effectiveness of existing conservation actions and regulatory mechanisms. Impacts from habitat conversion, woody succession, and invasive plant species are decreasing in areas with existing metapopulations of Fender's blue butterflies due to active habitat management and protection; these impacts are more likely to stay the same or increase in areas of remaining prairie that are not currently protected or managed (USFWS 2020, p. 59). With continued protection and proper habitat management, greater range expansion is possible, as explored in detail under Future Scenario 3 (see *Future Species Condition,* below), potentially increasing representation and redundancy of Fender's blue butterfly.

Pesticides

Insecticides and herbicides can directly kill eggs, larvae, and adult butterflies during application of the chemicals to vegetation or from drift of the chemicals from nearby applications in agricultural and urban areas. For instance, *Bacillus thuringiensis* var. *kurstaki,* a bacterium that is lethal to all butterfly and moth larvae, is frequently used to control unwanted insects and has been shown to drift at toxic concentrations over 3 km (2 mi) from the point of application (Barry *et al.* 1993, p. 1977). Sublethal effects may indirectly kill all life stages by reducing lupine host plant vigor, decreasing fecundity, reducing survival, or affecting development time. Both insecticides and herbicides are used in agricultural practices, while herbicides are also used for timber reforestation and roadside maintenance and to control invasive species and woody vegetation encroachment. The threat to Fender's blue butterflies that may occur in roadside populations has been reduced through the development of several HCPs that specifically address pesticide application practices in these areas (*e.g.,* Oregon Department of Transportation HCP; see *Conservation Measures,* below). The potential for exposure of Fender's blue butterfly to herbicides or insecticides remains throughout the species' range, especially in agricultural areas. However, we do not have any record of documented exposure or other data to inform our evaluation of the magnitude of any possible exposure, or the degree to which herbicides or insecticides may be potentially affecting the viability of the species (USFWS 2020, pp. 60–61). That said, while we cannot quantify the magnitude of possible exposure, agricultural land is widely distributed throughout the Willamette Valley, more lands are being converted to agriculture, and pesticide use is generally occurring more now than at any other time in history (Forister *et al.* 2019, p. 4). Because pesticides are used on most agricultural crops to increase crop yield and prevent disease spread, pesticide use in the Willamette Valley is likely to affect multiple metapopulations.

Predation and Small Population Sizes

Although the listing rule stated that predation may have a significant negative impact on Fender's blue butterfly due to the reduced size of populations, the best available information does not indicate that predation is a limiting factor for the species. Small population size was also identified as posing a threat of extinction due to the increased risk of loss through random genetic or demographic factors, especially in fragmented or localized populations (Factor E). Some very small, isolated populations of Fender's blue butterfly known at the time of listing do appear to have become extirpated (USFWS 2020, pp. 51–52), and existing small metapopulations or independent groups remain especially vulnerable to extirpation. Overall, however, the threat of small population size has decreased since listing due to the discovery of new metapopulations, the expansion of existing metapopulations, and the creation of new metapopulations from reintroductions of Fender's blue butterflies. Most, but not all, metapopulations of Fender's blue butterfly have increased in abundance relative to the time of listing, and the total population size has increased from just over 3,000 individuals in 12 metapopulations distributed across four counties, to well over 13,000 individuals in 15 metapopulations distributed across six counties (USFWS 2020, pp. 52–53).

Climate Change

The severity of threat posed to Fender's blue butterfly from the impacts of climate change is difficult to predict. The Willamette Valley, and prairies specifically, may fare better than other regions; however, various changes in average annual temperatures and precipitation are predicted and may affect Fender's blue butterfly or its habitat (Bachelet *et al.* 2011, p. 424; USFWS 2017, p. B–10; USFWS 2020, pp. 61–62). Such potential changes include higher water levels in wet prairies during winter and spring, increased spring flooding events, and prolonged summer droughts. Two models have been used to conduct climate change vulnerability assessments for butterfly species within the Willamette Valley using the Special Report on Emissions Scenarios (SRES) created by the Intergovernmental Panel on Climate Change (IPCC). Under the SRES B1 scenario (comparable to the representative concentration pathway (RCP) 4.5 scenario), both models ranked Fender's blue butterfly as stable. Under the SRES A1B scenario (RCP6.0), both models ranked Fender's blue butterfly as moderately vulnerable. Under the SRES A2 scenario (RCP8.5), however, Fender's blue butterfly was ranked as extremely vulnerable under one model and highly vulnerable under the other model due to its limited range and loss of both nectar and host plants. While the models do not agree on the degree of vulnerability, both models did show an increase in vulnerability as climate change scenarios worsened due to the species' limited range and the potential for loss of both nectar and host plants, as well as a possible increase in invasive, nonnative plants (Steel *et al.* 2011, p. 5; Kaye *et al.* 2013, pp. 23–24).

Conservation Measures

Because of extensive loss of native prairie habitats in the Willamette Valley and the resulting Federal listing of multiple endemic plant and animal species, the region has been the focus of intensive conservation efforts. Numerous entities, including Federal, State, and county agencies, nongovernmental organizations such as land trusts, and private landowners, have all become engaged in efforts to restore native Willamette Valley prairie and oak savannah habitats and the associated endemic animal communities. Collectively, the agencies and organizations that manage lands have acquired conservation easements and conducted management actions to benefit prairie and oak savannah habitats; in many cases, conservation efforts have been designed specifically to benefit Fender's blue butterfly. Various types of agreements have been established with private landowners to perform voluntary conservation actions on their land, while agencies are working collaboratively on habitat restoration and active prairie management under interagency agreements.

Our SSA report summarizes the conservation measures implemented across the range of Fender's blue butterfly since the species was listed in 2000 (USFWS 2020, pp. 62–65). These measures include native prairie habitat restoration and management on public lands or lands that are managed by a conservation organization, including Baskett Slough National Wildlife Refuge and surrounding areas, William L. Finley National Wildlife Refuge, Fern Ridge Reservoir, West Eugene Wetlands, Willow Creek Preserve, Yamhill Oaks Preserve, Coburg Ridge, Lupine Meadows, Hagg Lake, a small portion of the McDonald State Forest, and some Benton County public lands. The long-term viability of Fender's blue butterfly is dependent on an ongoing, consistent commitment to active management to remove woody vegetation and invasive plants, thereby maintaining the native plant community and open prairie conditions required by this species.

The contributions of private landowners have also made a significant impact on the conservation of Fender's blue butterfly. Approximately 96 percent of the Willamette Valley ecoregion is in private ownership (Oregon Department of Fish and Wildlife 2006), and the majority (66 percent) of designated critical habitat for Fender's blue butterfly is on private lands (see 50 CFR 17.95(i) and 71 FR 63862, October 31, 2006). Thus, the conservation and recovery of Fender's blue butterfly, Kincaid's lupine, and the suite of native species associated with them relies in large part on the voluntary actions of willing non-Federal landowners to conserve, enhance, restore, reconnect, and actively manage the native prairie habitats that support these species. Many Fender's blue butterfly sites on private or other non-Federal lands across the range of the species now have PFW agreements, SHAs, or HCPs in place with the Service.

Through many PFW agreements in place with private landowners in the Willamette Valley, we provide technical assistance to landowners for the enhancement and restoration of native habitats on their lands; these conservation actions benefit multiple native species, including Fender's blue butterfly. We administer and implement a programmatic SHA for the benefit of Fender's blue butterfly. This program encourages non-Federal landowners to undertake proactive conservation and restoration actions to benefit native prairie, as well as Fender's blue butterfly and Kincaid's lupine, in Benton, Lane, Linn, Marion, Polk, Washington, and Yamhill Counties, Oregon (USFWS 2016, entire). Since 2021, 17 properties covering approximately 595 ha (1,471 ac) are enrolled under the programmatic SHA as of November 2020; another 12 agreements that will cover an additional 417 ha (1,031 ac) are in development. In addition, three HCPs in place are designed to minimize and mitigate effects to Fender's blue butterfly: the Benton County HCP (2011; 50-year term), Yamhill County Road Rights-of-Way HCP (2014; 30-year term), and the Oregon Department of Transportation HCP (2017; 25-year term). These agreements include various provisions ensuring the implementation of best management practices and offsetting any potential negative impacts of activities through augmenting or enhancing populations of Fender's blue butterfly or prairie habitats.

Finally, nongovernmental organizations have actively pursued conservation easements and acquisition of properties throughout the Willamette Valley to benefit native prairies and Fender's blue butterfly. Specific examples include the 2005 acquisition and establishment of the Lupine Meadow Preserve by the Greenbelt Land Trust, and the 2008 acquisition and establishment of the Yamhill Oaks Preserve by The Nature Conservancy.

Overall, there are 137 total sites containing Fender's blue butterfly that occur over a broad range of land ownerships with varying degrees of land protection and management. Forty-four sites are on tracts of public land owned by the U.S. Army Corps of Engineers, Bureau of Land Management, Bureau of Reclamation, Oregon State University, or the Service, all of which are being managed for prairie habitat to varying degrees given funding and personnel. Fourteen sites are in public rights-of-way managed by the Oregon Department of Transportation or County Public Works, and all are being managed for prairie habitat. Thirty sites are on private land without any form of protection or active management for Fender's blue butterfly or its habitat. Another 43 sites are on private land with some level of protection via a conservation easement (20 sites) or under a cooperative agreement (23 sites) and are being managed for prairie habitat. More information on conservation measures performed by nongovernmental organizations specific to each metapopulation of Fender's blue butterfly are listed in the SSA report under *Metapopulation Descriptions under Current Conditions* (USFWS 2020, appendix C).

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future condition of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis. For Fender's blue butterfly, we analyzed the cumulative effects of habitat loss, conversion, and fragmentation; habitat succession to shrubs and woody plant species; encroachment of nonnative plants; application of pesticides; and climate change. We considered the source, immediacy, scope, and trajectory of each stressor; the life stages impacted, and the benefit conservation measures, such as habitat management and protection provided.

Current Species Condition

After assessing the biology of Fender's blue butterfly and the information presented in its recovery plan, we determined that the resiliency of a metapopulation of the species relies on an abundant supply of lupine host plants and nectar plants within prairie patches at least 6 ha (14.8 ac) in size, habitat heterogeneity, and minimal amounts of invasive plants and woody vegetation. Healthy metapopulations would also contain a minimum of 200 butterflies (resiliency) distributed across multiple groups within a metapopulation (redundancy) in lupine patches that are within 0.5 to 1.0 km (0.31 to 0.62 mi) of one another. At the species level, a highly resilient metapopulations would ideally be distributed across the historical range of the species (representation and redundancy across metapopulations) and have numerous habitat ''stepping stones'' for connectivity across the landscape (redundancy and representation).

In our evaluation, we used the best scientific data available to evaluate the current condition of each Fender's blue butterfly metapopulation in terms of resiliency. We developed criteria to assess specific habitat and demographic factors contributing to the overall resilience of metapopulations, and to rank each metapopulation as to whether it is in high, moderate, or low condition; these categories reflected our estimate of the probability of persistence over a period of 25 to 35 years (explained below; see *Future Species Condition*), as detailed in the SSA report (USFWS 2020, pp. 71–73). Criteria used to score metapopulation condition included the number of sites contributing to the metapopulation, butterfly abundance, connectivity, habitat patch size, lupine density, presence of nectar species, and measures of prairie quality and habitat heterogeneity (USFWS 2020, Table 6.2, p. 73).

Five of the existing 15 Fender's blue butterfly metapopulations are ranked as having a high current condition, while 3 are ranked as moderate, 6 are ranked low, and one may be extirpated (see Table 6, below). Overall, the majority of metapopulations, 8 out of 15, are ranked as either in high or moderate condition, indicating a degree of resiliency across the range of the species. Fender's blue butterfly currently demonstrates a good degree of metapopulation redundancy, with multiple metapopulations occurring both within and across the three recovery zones spanning the historical range of the species. Although no direct measures of genetic or ecological diversity are available, we consider the species to have a good degree of representation, as there are multiple metapopulations and groups of Fender's blue butterfly distributed relatively evenly across the geographic range of the species (six in the Salem recovery zone, five in the Corvallis recovery zone, and four in the Eugene recovery zone), in all known habitat types (both prairie and oak savannah) and elevations.

TABLE 6—CURRENT CONDITION OF FENDER'S BLUE BUTTERFLY METAPOPULATIONS

Metapopulation	Current condition
Salem Recovery Zone	
Baskett	High.
Gopher Valley	Moderate.
Hagg Lake	High.
Moores Valley	Possible extirpation.
Oak Ridge	Moderate.
Turner Creek	Low.
Corvallis Recovery Zone	
Butterfly Meadows	Low.
Finley	Moderate.
Greasy Creek	Low.
Lupine Meadows	Low.
Wren	High.
Eugene Recovery Zone	
Coburg Ridge	Low.
Oak Basin	Low.
West Eugene	High.
Willow Creek	High.

The discovery of Fender's blue butterflies in additional counties since the listing of the species, as well as the expansion of existing metapopulations, increases both the geographic range of the species and connectivity throughout the landscape. An increased number of metapopulations, composed of a greater number of individuals and with expanded distribution and connectivity across the range of Fender's blue butterfly (see Table 3, above), means the species has a greater chance of withstanding stochastic events (resiliency), surviving potentially catastrophic events (redundancy), and adapting to changing environmental conditions (representation) over time.

Future Species Condition

To understand the potential future condition of Fender's blue butterfly with respect to resiliency, redundancy, and representation, we considered a range of potential scenarios that incorporate important influences on the status of the species, and that are reasonably likely to occur. We additionally forecast the relative likelihood of each scenario occurring, based on our experience with the species and best professional judgment (see USFWS 2020, p. 78). Through these future scenarios, we forecast the viability of Fender's blue butterfly over the next 25 to 35 years. We chose this timeframe because it represents up to 35 generations of Fender's blue butterfly, and therefore provides an adequate timeframe to consider the species' response to threats. The recovery plan also used this general timeframe for the determination of downlisting criteria, and this timeframe can reveal the immediate effects of habitat management strategies given that our current interim protections (*e.g.,* HCPs, SHAs) have a lifespan ranging from 10 to 50 years. We bracketed our timeframe to a shorter period based on our knowledge of the species and our ability to project current and future threats and conservation efforts. We scored the projected future condition of each metapopulation based on a ruleset incorporating abundance and trend data, quality of prairie habitat, level of habitat protection, and type of habitat management (see USFWS 2020, pp. 77–83). In addition to the high, moderate, and low condition categories, we added a fourth category in our future scenarios accounting for possible extirpation. The purpose of evaluating the status of Fender's blue butterfly under a range of plausible future scenarios is to create a risk profile for the species into the future, allowing for an evaluation of its viability over time.

Scenario 1 assumes ''continuing efforts''—Fender's blue butterfly will continue on its current trajectory and influences on viability, habitat management, and conservation measures will all continue at their present levels. Due to our analysis of current management actions, protections, and threats, we consider this scenario as highly likely to play out over the next 25 to 35 years. Scenario 2 is based on an increased level of impact from negative influences on viability, particularly alterations in environmental conditions as a result of climate change. We consider this scenario moderately likely to occur over the next 25 to 35 years due to greater uncertainty in assessing the degree of climate change and the impact it may have on the species. Scenario 3 is based on increased conservation effort, including the potential for improved habitat conditions at currently occupied sites; metapopulation expansion by restoring currently unoccupied prairie sites; and augmentation, translocation,

and/or introduction of butterflies. In this scenario, we evaluated the potential for expansion at currently protected sites and protected areas identified as possible introduction sites (USFWS 2020, pp. 81–104). Due to questions regarding potential funding, personnel, and other conservation agreements needed to provide additional protections, we consider this scenario as also moderately likely to occur over the next 25 to 35 years. The results from these three scenarios describe a range of possible conditions in terms of viability of Fender's blue butterfly (USFWS 2020, pp. 104–106; see Table 7, below). We used two different methodologies for assessing future conditions. Under scenarios 1 and 2, we analyzed trends in population number and habitat quality and projected that out into the future. Meanwhile, in scenario 3, we mapped out and identified potential areas for conservation and worked with partners on the feasibility of conservation actions there. We then used these responses to project habitat enhancement in these areas and the impact that enhancement will have on the species' population trends. While these two methods differ, both apply our knowledge of the species and current and planned or potential management actions in order to project what its condition will be in the future.

TABLE 7—CONDITION SCORES FOR METAPOPULATION RESILIENCY, COMPARING CURRENT CONDITION TO THREE PLAUSIBLE FUTURE SCENARIOS AS DESCRIBED IN THE TEXT. RELATIVE LIKELIHOODS OF EACH SCENARIO AT 25 TO 35 YEARS ARE ALSO PROVIDED; SEE USFWS 2020, P. 77, FOR AN EXPLANATION OF CONFIDENCE TERMINOLOGIES USED TO ESTIMATE THE LIKELIHOOD OF SCENARIO OCCURRENCE

Condition score	Number of metapopulations			
	Current condition	Scenario 1—continuing efforts (highly likely)	Scenario 2—considerable impacts (moderately likely)	Scenario 3—conservation efforts (moderately likely)
High	5	7	3	7
Moderate	3	1	5	5
Low	6	5	0	2
Possible Extirpation	1	2	7	1

Because the natural processes that historically maintained this ecosystem and Fender's blue butterfly's early seral habitat are now largely absent from the Willamette Valley, the species is reliant upon ongoing management that sets back succession and controls invasive tall grasses and woody plant species. Therefore, an important consideration in our evaluation of the viability of the species is whether or not management actions will continue that restoration and maintenance of prairie systems, including actions that maintain populations of the lupine host plants and nectar resources in the Willamette Valley.

Scenario 1 results in improved condition for several metapopulations currently ranked as moderate as conservation efforts continue. On the other hand, metapopulations that are currently in low condition or already at risk of extirpation would likely either remain in that state or (in one case) degrade in condition from low to possible extirpation. Overall, we expect that the viability of Fender's blue butterfly under this scenario would improve relative to its current condition, characterized by increases in resiliency of existing metapopulations. Seven metapopulations would be in high condition, one in moderate condition, five in low, and two at risk of possible extirpation. There would be at least two metapopulations in high condition in each of the three recovery zones; the Salem recovery zone would be in the best condition, with three metapopulations in high condition. The resiliency of metapopulations would be lowest in the Corvallis recovery zone, with three of five metapopulations ranked either low or at risk of extirpation. Thus, there is a possibility for some loss of redundancy, with the Corvallis recovery zone at greatest risk. We anticipate that most, but not all, of the current metapopulations would maintain viability under this scenario.

Scenario 2 would be expected to result in decreases in resiliency and redundancy, with seven metapopulations subject to possible extirpation. While some metapopulations would likely retain their resiliency, more than half of the current metapopulations would be at risk of extinction within the next 25 to 35 years under this scenario. That said, we projected that all recovery zones would still maintain at least one metapopulation in high condition. We anticipate that, under these conditions, Fender's blue butterfly would persist, but its long-term viability in terms of resiliency, redundancy, and representation would be greatly diminished even with continued management for the conservation of the species.

Under Scenario 3, we expect resiliency to increase as several metapopulations remain at or move into high condition, with others transitioning from low to moderate condition; seven metapopulations would be in high condition, five in moderate condition, two in low condition, and one at risk of extirpation. Redundancy and representation would be maintained in all recovery zones; all recovery zones would have a minimum of two metapopulations in high condition. We anticipate that all of the currently extant metapopulations would maintain viability under this scenario, with the exception of one that is small and at risk of extirpation under all scenarios considered.

For the reasons described above under *Future Species Condition,* we forecast the future condition of Fender's blue butterfly out for a period of 25 to 35 years. Although information exists regarding potential impacts from climate change beyond this timeframe, the projections depend on an increasing number of assumptions as they move forward in time, and thus become more uncertain with increasingly long timeframes. For our purposes, as detailed above, we concluded that a foreseeable future of 25 to 35 years was the most reasonable period of time over which we could reasonably rely upon predictions of the future conservation status of Fender's blue butterfly.

Summary of Comments and Recommendations

In the proposed rule published on June 23, 2021 (86 FR 32859), we

requested that all interested parties submit written comments on the proposal by August 23, 2021. We also contacted appropriate State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting public to provide comments was published in The Oregonian on July 4, 2021. We did not receive any requests for a public hearing. All substantive information we received during the comment period has been incorporated directly into the final determination or is addressed below. We received five public comments on the proposed rule, two of which included substantive comments that are summarized below and incorporated into this final rule as appropriate.

Peer Reviewer Comments

As discussed under Supporting Documents above, we received responses from five peer reviewers. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the final SSA report.

Public Comments

(1) *Comment:* One commenter stated that the species should not be downlisted until the effects of wildfire, exacerbated by climate change, on Fender's blue butterfly's critical habitat is better understood.

Response: We may downlist a species listed as an endangered species if the best available commercial and scientific data indicate the species no longer meets the Act's definition of an endangered species, which is the case for Fender's blue butterfly. Prior research suggests that fire can increase lupine leaf density and that Fender's blue butterfly adults recolonize burned areas from nearby unburned lupine patches by laying eggs on lupine in burned areas the seasons following fire, such that butterfly abundance quickly rebounds and potentially exceeds pre-fire levels. In Fall 2019, a prescribed fire at Baskett Slough National Wildlife Refuge expanded beyond its planned boundaries, resulting in a significant portion of occupied butterfly habitat being burned. A multi-year project began in 2020 to gain a better understanding of the rates of Fender's blue butterfly mortality and the patterns of recolonization after fire. Preliminary results indicate that there was no difference in egg density in burned versus unburned plots even though there were fewer lupine leaves in burned plots; that there was less larvae activity in burned plots; and that recolonization occurred within 100 meters of the unburned areas.

Further research may provide important information on the effects of wildfire on the species, but we know that fire is an essential ecosystem component, is necessary to maintain prairie habitat so that it is not converted to shrub land and forest, and is a tool used to prevent succession to woody vegetation on the landscape. Regular fires reduce the abundance of shrubs and trees and favor the growth of grasses needed for Fender's blue butterfly habitat. Based on two climate change vulnerability models, it appears likely that Fender's blue butterfly may be negatively affected by long-term consequences of climate change; however, we are not able to specifically quantify the magnitude of effects to the species. While vulnerability was influenced by loss of nectar and host plants, the source of this loss was identified as invasive plants, not as wildfire. We have made no changes to the rule in response to this comment.

(2) *Comment:* One commenter stated that the Service's definition of a resilient population, 200 butterflies per metapopulation, does not equate to a healthy or resilient population. The commenter reiterated the fact that the Service identified the presence of at least 6 ha of high-quality habitat across three subpopulations (for a total of 18 ha) as necessary for a healthy population. The commenter stated that the Service needs to provide more up-to-date analysis in line with the research that has been done since the recovery plan was published.

Response: The minimum population of 200 mature individuals and 6 ha of high-quality habitat are both criteria identified in our recovery plan. Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. They rely on voluntary participation from landowners, land managers, and other recovery partners. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. Recovery is a dynamic process requiring adaptive management that may or may not fully follow the guidance provided in an earlier recovery plan. A determination of whether a valid, extant species should be downlisted or delisted is made solely on the question of whether it meets the Act's definition of an ''endangered species'' or of a ''threatened species.''

In determining whether a metapopulation is of low, moderate, or high resiliency, we rely on multiple lines of evidence in addition to the ones the commenter mentioned. In our analysis, a minimum population criterion of 200 adults is used to gauge how long (in consecutive years) a metapopulation exists above this threshold. In addition to this factor, we also considered the average 5-year abundance of a metapopulation, connectivity within the metapopulation, average prairie patch size, lupine density, and other demographic and habitat factors to assess resiliency (see table 6.2 in the SSA for the complete list). The 200-adult threshold alone does not determine the resiliency of the population. Rather, it is one of the factors we considered, in addition to the other factors briefly mentioned here, to determine the resiliency of a metapopulation.

Continued research and management activities since the recovery plan was completed have revealed that highly resilient populations do not necessarily need 6 ha of high-quality habitat. We have observed multiple populations that thrived in smaller habitat size (Menke 2018, entire). As noted above, while our recovery plan provides the general criteria for assessing the status of the species, it is not a regulatory document, and we are not required to fulfill all of its provisions and criteria to make a determination under section 4(a)(1) of the Act that a listed species should be downlisted or delisted. That said, the recommendation in our SSA and proposed rule that Fender's blue butterfly populations with high resiliency have 6 ha of high-quality habitat was to create a baseline for assessing the health of the metapopulation. The 6 ha of high-quality habitat was not used as a hard line for determining high versus low resiliency of metapopulations.

(3) *Comment:* One commenter stated that the Service did not clearly identify what ''high-quality habitat'' means.

Response: We acknowledge the imprecise definition of high-quality habitat in the recovery plan. To address this issue, we split habitat condition into factors. Some of these factors, such as prairie patch size and lupine density, are mentioned in our response to the second comment. In addition to those factors, we also examined the diversity of nectar species, the composition of

prairie habitat (woody versus shrub vegetation, and percentages of invasive species), and the heterogeneity in habitat types. These metrics allow us to better analyze and determine quality of Fender's blue butterfly's habitat. Second, we have learned more about the habitat requirements for Fender's blue butterfly since the completion of the recovery plan, and we incorporated this new information into our analysis of current and future conditions in the SSA report.

(4) *Comment:* One commenter stated that the three future scenarios in the SSA report intermix potential effects due to climate change and habitat management effort. The commenter suggested that the Service introduce three additional scenarios to better capture potential impacts due to climate change. The commenter provided an example of changes to Fender's blue butterfly's phenology over the past three decades as a factor the Service should consider in the future condition analysis of the SSA. Additionally, the commenter expresses concerns about the continuing effects of climate change, in light of the recently released IPCC report in August 2021.

Response: Given the uncertainty inherent in projecting future biological status, we use scenarios to consider a range of plausible assumptions about both future stressors, such as climate change, and conservation efforts, such as habitat management, that may affect Fender's blue butterfly. Because we have limited confidence in any single projection of the species' future condition, our future scenarios seek to capture the range of plausible outcomes. Therefore, we are not attempting to quantify every effect from climate change or habitat management in our scenarios. We recognize the effects of climate change on this species based on climate vulnerability studies and seek to understand how different types and levels of management efforts will respond to different climate change scenarios. We thus create scenarios that examine what the species' future condition will be in different climate projection models and different levels of management activities.

The intermixing of climate change and habitat management actions, therefore, was intentional. In assessing the status of the species, we considered the risk of extinction across the range of plausible scenarios. Because the probability of any one scenario occurring is incalculable, we concluded that adding additional scenarios would not necessarily better capture potential impacts of climate change. While the new IPCC report provides a global perspective on projected changes in climate, a downscaled model specific to the Pacific Northwest has not yet been released. As a result, we continue to rely on the best available scientific and commercial information to assess the impact of climate change on this species.

With regards to considering plant phenology in our future conditions, we reviewed the information presented in the paper cited in the comment. While the paper reports that peak flight activity for this species has changed, the trends in abundance based on phenological response has not. However, uncertainty remains regarding potential phenological mismatch with both host and nectar plants, and what, if any, the impacts will be to Fender's blue butterfly. Our future scenarios were designed to reflect the major stressors that could affect the species now and within the foreseeable. Therefore, we determined that plant phenology does not at present rise to the level where we would need to incorporate it into our future analysis.

(5) *Comment:* The commenter provided recommendations on changes to the proposed 4(d) rule. Broadly, these suggested changes revolved around tightening the timeframe for habitat management activities for invasive woody species and the equipment or methods used.

Response: We consulted internal and external experts on this issue. Overall, their response was that the suggestion was too restrictive and would interfere with habitat management beneficial to Fender's blue butterfly. While we acknowledge that larva are on the landscape, restricting the suggested time period for when landowners can perform various types of habitat improvements for the butterfly is not beneficial. The majority of land management activities that reduce invasive and/or nonnative plant species occur during the spring growing season, prior to the flight season. Therefore, by restricting activities outside the flight period (February to April timeline), we would restrict activities such as mowing tall grasses that can outcompete lupine and cause further habitat issues in the future. Overall, the benefit to the species by these management actions outweighs the potential impacts to individual larvae.

Determination of Fender's Blue Butterfly's Status

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

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we find that Fender's blue butterfly has experienced a marked increase in resiliency, redundancy, and representation across its historical range, contributing to an overall increase in viability. We listed Fender's blue butterfly as endangered in 2000, upon a determination at that time that the species was presently in danger of extinction throughout all or a significant portion of its range (65 FR 3875, January 25, 2000, p. 3886). Since then, our evaluation of the best scientific and commercial data available indicates that the abundance and distribution of Fender's blue butterfly has improved as a result of metapopulation expansion, metapopulation discovery, and metapopulation creation, as well as a marked increase in habitat protection and management across the range of the species. The presence of Fender's blue butterflies in new counties, the expansion of existing metapopulations, and the creation of new metapopulations increase both the geographic range of the species and potential connectivity throughout the landscape. In addition, active recovery efforts occurring since Fender's blue butterfly was listed have led to the amelioration of threats to the species, as detailed above under *Conservation Measures.* As described in the Summary of Biological Status and Factors Affecting Fender's Blue Butterfly, there has been a marked reduction in threats to the species posed by land conversion for agriculture and urbanization, heavy grazing, and invasion of prairies by nonnative, invasive plants and by

woody species (Factors A and E), helped in large part by effective habitat restoration and management efforts in the Willamette Valley (Factor D). Furthermore, threats identified at the time of listing under such as, overcollection (Factor B) and predation (Factor C) have not materialized as originally anticipated. Our assessment of the present condition of the species demonstrates that Fender's blue butterfly is currently found in 137 sites totaling 15 metapopulations and 6 independent groups. The metapopulations primarily ranked in high to moderate condition throughout all three recovery zones established for the species within its historical range, exhibiting an appreciable degree of resiliency, redundancy, and representation such that the species is no longer currently in danger of extinction. Thus, after assessing the best available information, we conclude that Fender's blue butterfly no longer meets the Act's definition of an endangered species.

We next consider whether Fender's blue butterfly meets the Act's definition of a threatened species. Although threats to the species have been reduced relative to the time of listing, the species remains vulnerable. The potential for exposure to pesticides (herbicides, insecticides) is an ongoing threat to the species throughout its range, due to the close proximity of Fender's blue butterfly occurrence sites to agricultural lands as well as areas subject to spraying to control gypsy moths or mosquitoes. In addition, we have yet to develop an effective method for eradicating tall oatgrass, a nonnative, invasive plant that is rapidly expanding into prime prairie habitats and posing a growing management concern. The low availability of lupine host plants, and inadequate supply of appropriate lupine seed for restoration efforts, is also a limiting factor for Fender's blue butterfly. The threat of overcollection to the long-term viability of the species is currently unknown but could have negative impacts. However, these acts are currently prohibited, likely reducing the threat. Next, we consider Fender's blue butterfly to be a ''conservation-reliant'' species (*sensu* Scott *et al.* 2010, p. 92), and it remains highly vulnerable to loss of its prairie habitat should active management cease. Because it relies on consistent disturbance to maintain its early seral prairie habitat, the future viability of Fender's blue butterfly is dependent upon ongoing management to set back succession and control the invasion of tall grasses and woody plant species since the natural processes that once historically maintained this ecosystem are now largely absent from the Willamette Valley. The viability of Fender's blue butterfly over the long term will therefore require addressing influences on viability including ongoing habitat conversion, loss of habitat disturbance resulting in habitat succession, invasion by nonnative plants, and exposure to insecticides and herbicides, as well as continued conservation and management efforts.

As noted in our endangered determination, there has been marked improvement in addressing many of the threats affecting the species including habitat loss due to conversion and invasion by non-native species. However, these efforts were achieved through management actions undertaken by the Service and our partners. The continuation of these efforts is vital due to the fact that succession of Fender's blue butterfly habitat by invasive species is an ongoing process. Controlling these invasives through management activities is essential to preventing succession. If these activities were downscaled or reduced, it could have drastically harmful effects on the species. This is demonstrated through our future scenarios in which we project out to 35 years.

Under the Continuing Effects scenario which assumes management activities continue at the current level, we project the number of metapopulations with high resiliency will increase from five to seven. This increase came from metapopulations whose current conditions were rated as low and moderate. This trend is also reflected in the Conservation Effort scenario where the number of metapopulations with high resiliency is projected to increase. However, under the Considerable Impacts scenario where management efforts are reduced, we project the species will occur in eight metapopulations with high or moderate resiliency and zero metapopulations with low resiliency; seven metapopulations may be extirpated. Under current condition, one metapopulation may be extirpated. The Considerable Impacts scenario represents a significant decline because we project a possible extirpation of almost half of all existing metapopulations. These declines are due to the stressors discussed above including succession of native habitats due to invasive species. The potential loss of so many metapopulations would have severe impacts on the species' redundancy and representation as these potential losses occur across all three recovery zones. Overall, our future scenarios demonstrate that Fender's blue butterfly is a conservation reliant species and ensuring the continuation of management activities is vital to sustain and improve the species' condition.

In addition to our future scenarios, we also reviewed the delisting criteria as identified in the recovery plan. Using those criteria, eleven of the 15 metapopulations do not meet the minimum criteria of 200 butterflies each year, and connectivity both within and between metapopulations remains limited due to the reduction and fragmentation of native prairie habitats, as well as the relative rarity and patchy distribution of the primary host plant, Kincaid's lupine. In particular, concern remains for the Corvallis recovery zone in the middle of the species' range, with metapopulations that are generally less robust and more vulnerable to deteriorating in condition over time (under current conditions, only one metapopulation in this zone is considered highly resilient, compared to two or more in the other zones).

Thus, after assessing the best available information, including, but not limited to, the current status of the species, ongoing threats to the species, and predicted status of Fender's blue butterfly under various future scenarios, including the consequences of climate change, we conclude that Fender's blue butterfly is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020) (Everson), vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (Final Policy; 79 FR 37578; July 1, 2014) that provided that the Service does not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and

(2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

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

For Fender's blue butterfly, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: habitat loss from land conversion for agriculture and urbanization; habitat degradation resulting from invasion of prairies by nonnative plants or by succession to woody species; insecticides and herbicides; effects of climate change; small population size; and the cumulative effects of these threats.

Given the small size of the Willamette Valley, its relatively homogenous geological features, and the consistent vegetation structure and composition in Fender's blue butterfly habitat, threats to the species are equally present throughout its range. For instance, the human population, and the resulting urbanization and agricultural needs, are increasing throughout the Willamette Valley such that habitat loss is not concentrated in any portion of the range (Oregon Department of Administrative Services 2013). Similarly, habitat degradation due to invasion by nonnative plants and woody succession have been detected in all occupied Fender's blue butterfly habitat (USFWS 2020, p. 59). Insecticides and herbicides are used for both roadside maintenance and for management to maintain or restore prairie habitats. Although treatments occur in different habitat areas, we did not find these activities to be concentrated in any Fender's blue butterfly metapopulation (USFWS 2020, p. 61).

Due to the limited geographic scope of the Willamette Valley, climatic variables such as temperature and precipitation do not vary significantly in different portions of the range currently. Temperature is projected to increase or somewhat increase throughout the Willamette Valley while hydrological variables are projected to remain neutral (Kaye *et al.* 2013, P. 13). While climate vulnerability models project that there could be changes in plant composition rangewide (Kaye *et al.* 2013, pp. 24–25), the impacts from phenological changes to Fender's blue butterfly metapopulations would likely differ based on their current conditions rather on their geographic location.

Additionally, the Fender's blue butterfly diet, physical habitat, and reproductive needs are all consistent throughout its range. Because of the small geographic scale of the Willamette Valley, the lack of habitat differences, the same biological requirements, and the uniform distribution of threats, we have determined that neither individual nor cumulative threats are concentrated to a degree in the current Fender's blue butterfly range such that the species would have a different biological status in any one recovery zone or metapopulation.

We found no concentration of threats in any portion of the range of Fender's blue butterfly at a biologically meaningful scale, and there is no evidence to suggest that these threats affect any of the metapopulations to a greater degree. Additionally, metapopulations that are in low condition are distributed throughout the species range and are not concentrated in any single portion of the range. Thus, there are no portions of the species' range where threats facing the species are concentrated to a degree where the species in that portion would have a different status from its rangewide status.

Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not need to consider whether any portions are significant and, therefore, did not apply the aspects of the Final Policy's definition of ''significant'' that those court decisions held were invalid.

Determination of Status

Our review of the best available scientific and commercial information indicates that Fender's blue butterfly meets the Act's definition of a threatened species. Therefore, we are reclassifying Fender's blue butterfly as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

II. Final Rule Issued Under Section 4(d) of the Act

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of the listed species. The Act allows the Secretary to promulgate protective regulations for threatened species pursuant to section 4(d) of the Act. Because we are reclassifying this species as a threatened species, the prohibitions in section 9 of the Act will not apply directly. We are, therefore, adopting a set of regulations to provide for the conservation of the species in accordance with the Act's section 4(d), which also authorizes us to apply any of the prohibitions in section 9 to a threatened species. The 4(d) rule, which includes a description of the kinds of activities that will or will not constitute a violation, complies with this policy.

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened species. The U.S. Supreme Court has noted that statutory language similar to the language in section 4(d) of the Act authorizing the Secretary to take action that she ''deems necessary and advisable'' affords a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592, 600 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited

under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting one or more of the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species. [She] may, for example, permit taking, but not importation of such species, or [she] may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

The provisions of this 4(d) rule would promote conservation of Fender's blue butterfly by encouraging management of the habitat for in ways that facilitate conservation for the species. The provisions of this 4(d) rule are one of many tools that we would use to promote the conservation of Fender's blue butterfly.

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

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

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

Provisions of the Final 4(d) Rule

Exercising the Secretary's authority under section 4(d) of the Act, we have developed a rule that is designed to address the specific threats and conservation needs of Fender's blue butterfly. As discussed above in the Summary of Biological Status and Factors Affecting Fender's Blue Butterfly, we have concluded that Fender's blue butterfly is likely to become in danger of extinction within the foreseeable future primarily due to loss and degradation of habitat, including impacts from habitat conversion, woody succession, and invasive plant species (Factors A and E); and the potential exposure of Fender's blue butterfly to herbicides or insecticides and changes in vegetation composition due to climate change (Factor E). Although the condition of Fender's blue butterfly has improved, the species remains vulnerable to these threats due to the small size of many of its metapopulations, limited connectivity between metapopulations as a consequence of fragmentation and the reduced extent of native prairie habitats, and the relative rarity of its lupine host plants on the landscape. Section 4(d) requires the Secretary to issue such regulations as she deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(2) of the Act prescribes for endangered species. We find that the protections, prohibitions, and exceptions in this rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of Fender's blue butterfly.

The protective regulations we are finalizing for Fender's blue butterfly incorporate prohibitions from section 9(a)(1) to address the threats to the species. Section 9(a)(1) prohibits the following activities for endangered wildlife: importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce. This protective regulation includes all of these prohibitions for Fender's blue butterfly because the species is at risk of extinction in the foreseeable future and putting these prohibitions in place will help to regulate a range of human activities that have the potential to affect Fender's blue butterfly, including agricultural or urban development; certain agricultural practices (*e.g.,* pesticide use); heavy levels of grazing; mowing; some practices associated with forestry (*e.g.,* road construction); roadside maintenance activities; control of nonnative, invasive plant species; and direct capture, injury, or killing of Fender's blue butterfly.

We include the prohibition of import, export, interstate and foreign commerce, and sale or offering for sale in such commerce because, while the number of metapopulations and abundance within most metapopulations has increased since the time of listing, Fender's blue butterfly is not thriving to the degree that the species is considered to be capable of sustaining trade. Rare butterflies such as Fender's blue are easily subject to overcollection, and the potential for population declines as a result of increased collection was one of the factors considered in the original listing of Fender's blue butterfly as an endangered species. Fortunately, the potential threat of overcollection has not thus far been realized, but any increased incentive for capture of Fender's blue butterfly from the wild would be highly likely to result in negative impacts to the long-term viability of the species.

Fender's blue butterfly remains likely to become an endangered species within the foreseeable future throughout all of its range. Although the status of the species has improved relative to when it was first listed as an endangered species, the species has not recovered to the point that it is capable of sustaining

unrestricted capture or collection from the wild without the likelihood of negative impacts to the long-term viability of the species. Because capture and collection of Fender's blue butterfly remains prohibited as discussed below, maintaining the complementary prohibition on possession and other acts with illegally taken Fender's blue butterfly will further discourage such illegal take. Thus, the possession, sale, delivery, carrying, transporting, or shipping of illegally taken Fender's blue butterflies will continue to be prohibited in order to continue progress toward the conservation and recovery of the species.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulation at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating incidental and intentional take will help preserve the remaining metapopulations of Fender's blue butterfly.

Although the number of metapopulations, and abundance within most metapopulations, has increased since the time of listing, Fender's blue butterfly remains a vulnerable species and has not yet attained full recovery. We do not consider Fender's blue butterfly capable of withstanding unregulated take, either intentional or incidental to otherwise lawful activities, without likely negative impacts to the long-term viability of the species. There are a few circumstances in which allowing incidental take may ultimately benefit Fender's blue butterfly as a species and further its recovery. We have outlined such circumstances below as exceptions to the prohibitions of take. By allowing take under specified circumstances, the rule will provide needed protection to the species while allowing management flexibility to benefit the species' long-term conservation. Anyone taking, attempting to take, or otherwise possessing a Fender's blue butterfly, or parts thereof, in violation of section 9 of the Act will still be subject to a penalty under section 11 of the Act, except for the actions that are specifically excepted under the 4(d) rule.

Incidental take by landowners or their agents is allowed while conducting management for the creation, restoration, or enhancement of short-stature native upland prairie or oak savannah conditions within areas occupied by Fender's blue butterfly, subject to the restrictions described herein and as long as reasonable care is practiced. An important aspect of prairie management is the timing and location of treatment. Lupine is patchy and distributed in small clumps low to the ground whereas invasive tall grasses are more uniform. This means the person doing the herbicide spray or other removal work needs to be able to recognize the plants to be sure they are treating the correct areas, the correct species, and know when to treat the area before the seed has set. To help avoid potential issues, we require a qualified biologist to be involved in the planning even if the landowners do the treatment themselves. The biologist does not need to be present on-site on the day of the treatment but does need to be consulted and involved beforehand. Reasonable care may include but is not limited to: (1) Procuring and/or implementing technical assistance from a qualified biologist on timing and location of habitat management activities prior to implementation; and (2) using best efforts to avoid trampling or damaging Fender's blue butterflies (eggs, larvae, pupae, adults) and their host and nectar plants during all activities.

Fender's blue butterfly is a conservation-reliant species. Active management for prairie conditions within the historical range of Fender's blue butterfly is essential for long-term viability and is one of the key recovery actions identified for the species. Allowing certain forms of active management for the purpose of creating, restoring, or enhancing native upland prairie or oak savannah conditions is necessary to facilitate and encourage the implementation of conservation measures that will address one of the primary threats to Fender's blue butterfly, the loss or degradation of native short-stature prairie or oak savannah habitat within the Willamette Valley. Restoration actions may include manual, mechanical, and herbicidal treatments for invasive and nonnative plant control that does not result in ground disturbance, including mowing and planting by hand of native vegetation, especially native food resources for Fender's blue butterfly larvae (Kincaid's, longspur, or sickle-keeled lupine) or adults (native nectar species). Prescribed burning is a complex endeavor, and there is potential for impacts to Fender's blue butterfly beyond that which local metapopulations or subpopulations may be capable of withstanding should the burn exceed its intended geographic limits; therefore, we do not provide an exception for take as a result of prescribed burning in the 4(d) rule. Take coverage for prescribed burning can be obtained through section 7 consultation, a section 10(a)(1)(A) permit, or through the Programmatic Restoration Opinion for Joint Ecosystem Conservation by the Services (PROJECTS) program.

Providing landowners management flexibility facilitates the creation, restoration, and enhancement of native upland prairie and oak savannah habitats. Habitat is considered occupied by Fender's blue butterfly if it is within the historical range of the species and supports or may support lupine, unless a qualified biologist using direct observation has conducted surveys for adult Fender's blue butterfly during the April 15 to June 30 flight period and documented no adult butterflies. Occupied habitat also includes all nectar habitat within 0.5 km (0.3 miles) of habitat containing at least one of the three host lupine species and that is occupied by Fender's blue butterfly. Unsurveyed areas within 2 km (1.25 mi) of a known Fender's blue butterfly population shall be assumed occupied if no surveys are conducted. This 4(d) rule authorizes landowners to plant native vegetation by hand; conduct mechanical and manual treatments to control woody and invasive nonnative plants; perform tractor and hand mowing; and apply herbicides within occupied Fender's blue butterfly habitat. To prevent possible negative effects on Fender's blue butterfly or its host lupine, the following time restrictions apply to the exceptions to take by landowners in areas occupied by Fender's blue butterfly:

(1) Mechanical treatments for control of woody and invasive and nonnative plant species that do not result in ground disturbance are authorized within occupied habitat outside of the butterfly flight period (April 15 to June 30) to avoid impacts to adult butterflies.

(2) To prevent invasive plant species establishment, tractor mowing is authorized throughout sites with Fender's blue butterflies before February 15 (when lupine emerges) and after August 15 (when lupine undergoes senescence). Mowing with handheld mowers is authorized throughout the year; however, a buffer of at least 8 m (25 ft) must be maintained between the mower and any individual lupine plant during Fender's blue butterfly's flight season (April 15 to June 30).

(3) Weed wiping and broadcast application of herbicides are authorized outside of the flight period of April 15 to June 30; however, additional timing and use restrictions are required based on the chemicals used. Contact the Oregon Fish and Wildlife Office prior to herbicide implementation for a list of

currently acceptable herbicides, their application methods, their appropriate timing of use, and best management practices associated with herbicide use.

To better refine conservation activities affecting the species, we are amending the proposed rule on manual treatment. In this final rule, manual treatments for control of woody and invasive and nonnative plant species that do not result in ground disturbance are authorized within occupied habitat year-round. Additionally, planting by hand of native vegetation is authorized year-round.

We expect that the actions and activities that are allowed under this 4(d) rule, while they may cause some minimal level of harm or disturbance to individual Fender's blue butterflies, will on balance facilitate efforts to conserve and recover the species because they will make it easier for our State and private partners to implement recovery actions and restore the habitats required by Fender's blue butterfly. The loss or degradation of early seral prairie habitats is one of the primary threats to Fender's blue butterfly, and disturbance (such as that described under the take exemptions provided here) is required to restore or maintain the habitat characteristics that are essential to the survival of this conservation-reliant species.

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

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

Nothing in this 4(d) rule will change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or our ability to enter into partnerships for the management and protection of Fender's blue butterfly. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between us and other Federal agencies, such as the existing programmatic consultation on habitat restoration actions in the existing PROJECTS biological opinion (USFWS 2015, entire), which includes provisions for management actions that benefit Fender's blue butterfly.

Required Determinations

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

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with determining a species' listing status under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (*e.g., Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Center for Biological Diversity* v. *U.S. Fish and Wildlife Service.,* 2005 WL 2000928 (N.D. Cal. Aug. 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

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

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R1–ES–2020–0082 or upon request from the Oregon Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are the staff members of the U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. In § 17.11, paragraph (h), amend the List of Endangered and Threatened Wildlife by revising the entry for ''Butterfly, Fender's blue'' under INSECTS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
INSECTS				
*	*	*	*	*
Butterfly, Fender's blue	*Icaricia icarioides fenderi*	Wherever found	T	65 FR 3875, 1/25/2000; 88 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS], 1/12/2023; 50 CFR 17.47(f); [4d] 50 CFR 17.95(i).[CH]
*	*	*	*	*

■ 3. In § 17.12, paragraph (h), amend the List of Endangered and Threatened Plants by revising the entry for ''*Lupinus sulphureus* ssp. *kincaidii*'' under FLOWERING PLANTS to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
*	*	*	*	*
Lupinus sulphureus ssp. *kincaidii.*	Kincaid's lupine	Wherever found	T	65 FR 3875, 1/25/2000; 50 CFR 17.96.[CH]
*	*	*	*	*

■ 4. In § 17.47, add paragraph (f) to read as follows:

§ 17.47 Special rules—insects.

* * * * *

(f) Fender's blue butterfly (*Icaricia icarioides fenderi*)—(1) *Definitions.* As used in this paragraph (f), the following terms have these meanings:

(i) *Occupied habitat.* Habitat within the historical range of Fender's blue butterfly in the Willamette Valley of Oregon that supports or may support lupine, unless a qualified biologist using direct observation has conducted surveys for adult Fender's blue butterfly during the April 15 to June 30 flight period and documented no adult butterflies. Occupied habitat also includes all nectar habitat within 0.5 kilometers (km) (0.3 miles (mi)) of habitat containing at least one of the three host lupine species and that is occupied by Fender's blue butterfly. Unsurveyed areas within 2 km (1.25 mi) of a known Fender's blue butterfly population shall be assumed occupied if no surveys are conducted.

(ii) *Qualified biologist.* An individual with a combination of academic training in the area of wildlife biology or related discipline and demonstrated field experience in the identification and life history of Fender's blue butterfly, or in habitat restoration methods to benefit Fender's blue butterfly. If capture of individuals is required for accurate identification, the individual must hold a valid permit under section 10(a)(1)(A) of the Act.

(iii) *Lupine.* Any one of the three species of lupines known to be required as host plants for the larvae of Fender's blue butterfly: Kincaid's lupine (*Lupinus sulphureus* ssp. *kincaidii*), longspur lupine (*L. arbustus*), and sickle-keeled lupine (*L. albicaulis*).

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

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

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

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

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

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

(3) *Exceptions from prohibitions.* In regard to this species, you may:

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

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

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

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

(v) Take incidental to an otherwise lawful activity caused by:

(A) *Mechanical removal of invasive and/or nonnative plant species.* Mechanical treatments for invasive and nonnative plant control (including encroaching native woody species) that do not result in ground disturbance are

authorized within occupied habitat outside the butterfly's flight period of April 15 to June 30, provided:

(*1*) Landowners or their agents conducting invasive or nonnative plant removal use reasonable care, which includes, but is not limited to, procuring and/or implementing technical assistance from a qualified biologist on timing and location of habitat management activities and avoidance of ground disturbance to avoid impacts to larvae or pupae. Best management practices for felling of trees, removal of vegetation off-site, and temporary piling of cut vegetation on-site are available from the Oregon Fish and Wildlife Office.

(*2*) Reasonable care during all activities includes best efforts to avoid trampling or damaging Fender's blue butterflies (eggs, pupae, larvae, and adults) and their host and nectar plants. Foot traffic shall be minimized in occupied habitat, and especially in the area of any lupine plants.

(B) *Manual removal of invasive and/or nonnative plant species.* Manual treatments for invasive and nonnative plant control (including encroaching native woody species) that do not result in ground disturbance are authorized within occupied habitat year-round, provided:

(*1*) Landowners or their agents conducting invasive or nonnative plant removal use reasonable care, which includes, but is not limited to, procuring and/or implementing technical assistance from a qualified biologist on location of habitat management activities and avoidance of ground disturbance to avoid impacts to larvae or pupae. Best management practices for felling of trees, removal of vegetation off-site, and temporary piling of cut vegetation on-site are available from the Oregon Fish and Wildlife Office.

(*2*) Reasonable care during all activities includes best efforts to avoid trampling or damaging Fender's blue butterflies (eggs, pupae, larvae, and adults) and their host and nectar plants. Foot traffic shall be minimized in occupied habitat, and especially in the area of any lupine plants.

(C) *Mowing.* Tractor mowing for invasive and nonnative plant control (including encroaching native woody species) and the maintenance of early seral conditions is authorized throughout occupied Fender's blue butterfly habitat before February 15 when lupine emerges and after August 15 when lupine undergoes senescence.

(*1*) Mowing with handheld mowers is authorized throughout the year; however, a buffer of at least 8 meters (25 feet) must be maintained between the mower and any individual lupine plant during Fender's blue butterfly flight season (April 15 to June 30).

(*2*) Prior to and during mowing, landowners or their agents must use reasonable care, which includes, but is not limited to, procuring and implementing technical assistance from a qualified biologist on timing and location of habitat management activities prior to conducting work; avoidance of ground disturbance to avoid impacts to larvae or pupae; and using best efforts during all activities to avoid trampling or damaging Fender's blue butterflies (eggs, pupae, larvae, and adults) and their host and nectar plants. Foot traffic shall be minimized in occupied habitat, and especially in the area of any lupine plants.

(D) *Herbicide application for removal of invasive and/or nonnative plant species by hand wiping, wicking, and spot-spray applications.* Hand wiping, wicking, and spot-spray applications of herbicides for either the removal of nonnative, invasive plant species or to prevent resprouting of woody species subsequent to cutting are authorized year-round.

(E) *Herbicide application for removal of invasive and/or nonnative plant species by weed wiping and broadcast application.* Weed wiping and broadcast application of herbicides are authorized outside of the flight period of April 15 to June 30; however, additional timing and use restrictions are required based on the chemicals used. Contact the Oregon Fish and Wildlife Office prior to herbicide application for a list of currently acceptable herbicides, their application methods, their appropriate timing of use, and best management practices associated with herbicide use.

(*1*) Prior to and during herbicide application, landowners or their agents must use reasonable care, which includes, but is not limited to, procuring and implementing technical assistance from a qualified biologist on habitat management activities prior to conducting the work; complying with all State and Federal regulations and guidelines for application of herbicides; and avoiding broadcast spraying in areas adjacent to occupied habitat if wind conditions are such that drift into the occupied area is possible.

(*2*) Landowners or their agents conducting herbicide application must use best efforts to avoid trampling or damaging Fender's blue butterflies (eggs, pupae, larvae, and adults) and their host and nectar plants. Foot traffic shall be minimized in occupied habitat, and especially in the area of any lupine plants.

(F) *Ground disturbance for the purpose of planting native vegetation.* Limited ground disturbance (digging and placement by hand) is authorized for the purpose of planting native vegetation as part of habitat restoration efforts, especially native food resources used by larvae and adults, in areas occupied by Fender's blue butterfly.

(*1*) Larvae of Fender's blue butterfly require lupine. For adults, preferred native nectar sources include, but are not limited to, the following flower species: tapertip onion (*Allium acuminatum*), narrowleaf onion (*Allium amplectens*), Tolmie's mariposa lily (*Calochortus tolmiei*), small camas (*Camassia quamash*), Clearwater cryptantha (*Cryptantha intermedia*), Oregon sunshine (*Eriophyllum lanatum*), Oregon geranium (*Geranium oreganum*), Oregon iris (*Iris tenax*), meadow checkermallow (*Sidalcea campestris*), rose checkermallow (*Sidalcea virgata*), and purple vetch (*Vicia americana*).

(*2*) Prior to and during planting of native vegetation, landowners or their agents must use reasonable care, which includes, but is not limited to, procuring and implementing technical assistance from a qualified biologist on timing and location of habitat management activities and using best efforts during all activities to avoid trampling or damaging Fender's blue butterflies (eggs, pupae, larvae, and adults) and their host and nectar plants. Foot traffic shall be minimized in occupied habitat, and especially in the area of any lupine plants.

(G) *Summary of authorized methods and timing of habitat restoration activities for Fender's blue butterfly.*

TABLE 1 TO PARAGRAPH (f)(3)(v)(G)

Management activity	Dates authorized for use in occupied habitat
Mechanical treatments	Outside of the flight period of April 15 to June 30.
Manual treatments	Year-round.
Mowing—tractors	Before February 15 and after August 15.

TABLE 1 TO PARAGRAPH (f)(3)(v)(G)—Continued

Management activity	Dates authorized for use in occupied habitat
Mowing—handheld	Year-round, with a buffer of 8 meters (25 feet) between the mower and any individual lupine plant during the flight period of April 15 to June 30.
Herbicides—hand wiping	Year-round.
Herbicides—wicking	Year-round.
Herbicides—spot-spray	Year-round.
Herbicides—broadcast spray	Outside of the flight period of April 15 to June 30.*
Herbicides—weed wiping	Outside of the flight period of April 15 to June 30.*
Planting native vegetation	Year-round.

* Additional timing restrictions will apply based on the chemicals used. Contact the Oregon Fish and Wildlife Office for additional information.

(H) *Reporting and disposal requirements.* Any injury or mortality of Fender's blue butterfly associated with the actions excepted under paragraphs (f)(3)(v)(A) through (E) of this section must be reported to the Service and authorized State wildlife officials within 5 calendar days, and specimens may be disposed of only in accordance with directions from the Service. Reports should be made to the Service's Office of Law Enforcement (contact information is at § 10.22 of this subchapter) or the Service's Oregon Fish and Wildlife Office and to the State of Oregon Department of Parks and Recreation, Stewardship Section, which has jurisdiction over invertebrate species. The Service may allow additional reasonable time for reporting if access to these offices is limited due to closure.

* * * * *

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2023–00037 Filed 1–11–23; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 88, No. 8
Thursday, January 12, 2023

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 ENERGY

10 CFR Part 1021

Request for Information Regarding Categorical Exclusions

AGENCY: Department of Energy.

ACTION: Request for information; re-opening of public comment period.

SUMMARY: On November 15, 2022, the U.S. Department of Energy (DOE) published a request for information to help inform potential updates to categorical exclusions in its regulations implementing the National Environmental Policy Act (NEPA). Through the request for information, DOE sought recommendations and supporting information from interested individuals and organizations on establishing new categorical exclusions and revising existing ones. In response to public request, DOE is re-opening the comment period for 30 days to allow interested parties additional time to provide input.

DATES: The comment period for the request for information, published on November 15, 2022 (87 FR 68385), which closed on December 30, 2022, is hereby reopened. Responses should be submitted by February 13, 2023.

ADDRESSES: Submit comments, labeled ''DOE NEPA RFI,'' via *https://www.regulations.gov.* This request for information is assigned Docket ID: DOE–HQ–2023–0002. Follow the online instructions for submitting comments electronically. Alternatively, responses to this request for information may be submitted by email to *doe-nepa-rulemaking@hq.doe.gov.* There is no need to submit comments using both methods.

FOR FURTHER INFORMATION CONTACT: For further information on submitting responses, contact Carrie Abravanel, Office of NEPA Policy and Compliance (GC–54), 202–586–8397, *Carrie.Abravanel@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE published a request for information on November 15, 2022 (87 FR 68385) that started a 45-day comment period (ending December 30, 2022). DOE is considering revisions to ensure that its NEPA reviews are aligned with the latest DOE programs and initiatives for clean energy and electricity transmission projects, fully consider potential environmental impacts and community concerns, and are efficient and effective at informing DOE decisions. In the request for information, DOE sought recommendations and supporting information from interested individuals and organizations on establishing new categorical exclusions and revising existing ones. Through the request for information, interested parties were invited to:

- Identify a specific category of actions related to clean energy projects and clean energy infrastructure that is not covered by existing DOE categorical exclusions, but that is likely to meet the standard of not having a significant effect on the human environment; and
- Provide suggestions for revising DOE's existing categorical exclusions related to clean energy projects and clean energy infrastructure.

In response to public request, DOE has determined that re-opening the public comment period is appropriate to allow interested parties additional time to submit comments for DOE's consideration. Therefore, DOE is re-opening the comment period for an additional 30 days. Please see the November 15, 2022, request for information for additional background information and instructions on providing comments. That request for information is available at *https://www.energy.gov/nepa/articles/request-information-regarding-categorical-exclusions-2022.*

How should information be provided?

Responses should be submitted to *doe-nepa-rulemaking@hq.doe.gov* by February 13, 2023. Submitted information will be included in the public record of any associated rulemaking, should DOE decide to undertake revisions to its NEPA regulations.

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Signing Authority

This document of the Department of Energy was signed on January 6, 2023, by Samuel Walsh, General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, January 6, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–00430 Filed 1–11–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1662; Project Identifier MCAI–2022–00689–T]

RIN 2120–AA64

Airworthiness Directives; 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 Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by multiple reports of

erratic electrical system status on the push button annunciators (PBAs) and the engine instrument and crew alerting system (EICAS) while on-ground and during flight. This proposed AD would require a records check and replacement of affected left-hand (LH) direct current power center (DCPC) units. 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 27, 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–2022–1662; 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 Bombardier service information identified in this NPRM, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aerospace Engineer, Avionics & 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–2022–1662; Project Identifier MCAI–2022–00689–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Steven Dzierzynski, Aerospace Engineer, Avionics & 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–2022–28, dated June 9, 2022 (Transport Canada AD CF–2022–28) (also referred to after this as the MCAI), to correct an unsafe condition on certain Bombardier, Inc., Model BD–100–1A10 airplanes. The MCAI states there have been multiple reports of erratic electrical system status on the PBAs and the EICAS while on-ground and during flight, and in several cases, leading to momentary loss of electrical power and loss of flight displays following flight crew responses to the erratic statuses. It was found that airplanes could experience misleading electrical system status indications (PBA and EICAS) as a result of contamination of electrical contacts in the LH DCPC internal communication data bus. Those erratic indications could cause the crew to turn off fully-operational electrical power sources, leading to partial or complete loss of electrical power. Loss of electrical power could result in the loss of flight displays and reduced controllability of the airplane.

The MCAI also stated that Transport Canada previously issued CF–2020–46, dated November 17, 2020 (which corresponds to FAA AD 2021–23–14, Amendment 39–21812 (86 FR 68889, December 6, 2021)), which mandated the use of revised Electrical Emergency and Non-Normal Procedures in the airplane flight manual that directed crews not to turn off active generators in the event of an erroneous electrical system status indication. The MCAI advised that further corrective action is being developed to introduce a design improvement to the DCPC that is intended to protect the internal communication data bus from contaminants, and that a time-limited maintenance check will also be implemented.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1662.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletins 100–24–29 and 350–24–004, both dated April 9, 2021. This service information specifies procedures for a records check to determine the total flight hours and replacement of affected LH DCPC units (part numbers 975GC02Y04, 975GC0Y05, 975GC02Y06, or 975GC02Y07). These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described, except as discussed under ''Differences Between this NPRM and the MCAI or Service Information.''

Differences Between This NPRM and the MCAI or Service Information

The note to paragraph 2.B.(4) in Bombardier Service Bulletins 100–24–29 and 350–24–004, both dated April 9, 2021, specifies to reset the unit total flight hours to zero at date of incorporation. This proposed AD would not require that action.

Interim Action

The FAA considers that this proposed AD would be an interim action. The MCAI states that further corrective action is being developed. Once this action is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 315 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
1 work-hours × $85 per hour = $85	$0	$85	$26,775

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
8 work-hours × $85 per hour = $680	Up to $35,000	Up to $35,680.

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:

Bombardier, Inc.: Docket No. FAA–2022–1662; Project Identifier MCAI–2022–00689–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 27, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, having serial number 20003 through 20795 inclusive, 20797 through 20812 inclusive, 20814 through 20832 inclusive, and 20834 through 20836 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Unsafe Condition

This AD was prompted by multiple reports of erratic electrical system status on the push button annunciators (PBAs) and the engine instrument and crew alerting system (EICAS) while on-ground and during flight. The FAA is issuing this AD to address erratic indications, which could cause the flight crew to turn off fully-operational electrical power sources, leading to partial or complete loss of electrical power. The unsafe condition, if not addressed, could result in loss of electrical power could result in the loss of flight displays and reduced controllability of the airplane.

(f) Compliance

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

(g) Records Check

Within 60 days after the effective date of this AD, verify the total flight hours of the left-hand (LH) direct current power center (DCPC) unit since the date of manufacture by doing a records check in accordance with paragraph 2.B.(1) of the Accomplishment Instructions of the applicable service bulletin identified in paragraphs (g)(1) and (2) of this AD.

(1) For airplanes having serial number 20001 through 20500 inclusive, use Bombardier Service Bulletin 100–24–29, dated April 9, 2021.

(2) For airplanes having serial number 20501 through 20999 inclusive, use Bombardier Service Bulletin 350–24–004, dated April 9, 2021.

(h) Replacement of the LH DCPC

If, during the records check required by paragraph (g) of this AD, the total flight hours since date of manufacture of the LH DCPC unit is equal to or more than 3,100 total flight hours and the LH DCPC has not been cleaned as specified in Safran Service Bulletin 975GC02Y–24–018 before the effective date of this AD: Within 19 months after the effective date of this AD, replace the LH DCPC unit in accordance with paragraphs 2.B.(2) through 2.B.(5) and 2.C. of the Accomplishment Instructions of the applicable service bulletin identified in paragraphs (g)(1) and (2) of this AD.

(i) Exception to the Service Information

Although the note in paragraph 2.B.(4) of the Accomplishment Instructions of Bombardier Service Bulletins 100–24–29, and 350–24–004, both dated April 9, 2021, specifies that actions will reset ''the unit total flight hours to zero at date of incorporation,'' this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the New York ACO Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (k)(1) of this AD or email to: *9-avs-nyaco-cos@faa.gov*. If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(k) Additional Information

(1) Refer to Transport Canada AD CF–2022–28, dated May 26, 2022, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1662.

(2) For more information about this AD, contact Steven Dzierzynski, Aerospace Engineer, Avionics & 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) Bombardier Service Bulletin 100–24–29, dated April 9, 2021.

(ii) Bombardier Service Bulletin 350–24–004, dated April 9, 2021.

(3) For Bombardier service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com*; website *bombardier.com*.

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

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

Issued on January 2, 2023.

Christina Underwood,

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

[FR Doc. 2023–00062 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1659; Project Identifier MCAI–2022–01254–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by reports of broken lower attachment studs on the AFT galley complex. This proposed AD would require repetitive detailed inspections of the lower attachment studs and, depending on findings, replacement of the lower attachment studs, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 27, 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–2022–1659; 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 EASA material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.
- 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: Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1659; Project Identifier MCAI–2022–01254–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 Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0196, dated September 20, 2022 (EASA AD 2022–0196) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states that the manufacturer has received reports of broken lower attachment studs on the AFT galley complex. The manufacturer's investigation indicates that the broken lower attachment studs resulted from a hydrogen-induced failure. This condition, if not addressed, could lead to galley detachment, resulting in injury to airplane occupants and reduced capacity for emergency evacuation of the airplane.

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–2022–1659.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0196 specifies procedures for repetitive detailed inspections for broken lower attachment studs and, depending on findings, replacement of the lower attachment studs on the AFT galley complex. The MCAI specifies that replacement of the lower attachment studs on the AFT galley complex constitutes a terminating action for the repetitive detailed inspections. The MCAI also prohibits the installation of affected parts on any airplane. 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 EASA AD 2022–0196 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0196 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0196 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0196 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0196. Service information required by EASA AD 2022–0196 for compliance will be available at *regulations.gov* under Docket No. FAA–2022–1659 after the FAA final rule is published.

Interim Action

The FAA considers that this proposed AD would be an interim action. If final action is later identified, the FAA may consider further rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 8 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
2 work-hours × $85 per hour = $170	$0	$170	$1,360

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
7 work-hours × $85 per hour = $595	$95	$690

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 SAS: Docket No. FAA–2022–1659; Project Identifier MCAI–2022–01254–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 27, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2022–0196, dated September 20, 2022 (EASA AD 2022–0196).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of broken lower attachment studs on the AFT galley complex. The FAA is issuing this AD to address broken lower attachment studs on the AFT galley complex. The unsafe condition, if not addressed, could lead to galley module detachment, resulting in injury to airplane occupants and reduced capacity for emergency evacuation of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0196.

(h) Exceptions to EASA AD 2022–0196

(1) Where EASA AD 2022–0196 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (3) of EASA AD 2022–0196 specifies terminating action, for this AD, replacing all affected parts of all affected galleys terminates the repetitive inspections for that airplane.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0196.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information referenced in EASA AD 2022–0196 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0196, dated September 20, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0196, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this EASA AD on the EASA website at *ad.easa.europa.eu*.

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

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

Issued on December 27, 2022.

Christina Underwood,

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

[FR Doc. 2022–28584 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1660; Project Identifier MCAI–2022–01268–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 27, 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–2022–1660; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2022–1660.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1660; Project Identifier MCAI–2022–01268–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 Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0194, dated September 23, 2022 (EASA AD 2022–0194) (also referred to as the MCAI), to correct an unsafe condition for all Airbus A300B4–601, A300B4–603, A300B4–620, A300B4–622, A300B4–605R, A300B4–622R, A300C4–605R Variant F, A300C4–620, A300F4–605R, A300F4–622R, and A300F4–608ST airplanes. Model A300C4–620 and A300F4–608ST airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

The MCAI states that new or more restrictive airworthiness limitations tasks related to the trimmable horizontal stabilizer actuators (THSA) are necessary. EASA AD 2022–0194 specifies that revised tasks (limitations) in Airbus A300–600 Airworthiness Limitations Section (ALS), Part 4, System Equipment Maintenance Requirements (SEMR) Revision 03, dated August 28, 2017, are required by EASA AD 2017–0202, dated October 12, 2017 (which corresponds to FAA AD 2018–18–21, Amendment 39–19400 (83 FR 47054, September 18, 2018) (AD 2018–18–21)). EASA AD 2022–0194 also specifies that incorporation of EASA AD 2022–0194 invalidates (terminates) prior instructions for the tasks specified in Airbus A300–600 Airworthiness Limitations Section (ALS), Part 4, System Equipment Maintenance Requirements (SEMR) Revision 03, Variation 3.1, dated June 30, 2022, only. For this proposed AD, the corresponding action is specified in paragraph (j)(2) of this proposed AD, which states that accomplishing the actions specified in this proposed AD terminates the corresponding requirements of AD 2018–18–21, for the tasks identified in the service information referenced in EASA AD 2022–0194 only.

The MCAI also states that EASA AD 2015–0081, dated May 7, 2015 (EASA AD 2015–0081) requires replacement of certain THSA. EASA AD 2015–0081 corresponds to FAA AD 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016) (AD 2016–15–01). AD 2016–15–01 required inspecting THSA part numbers, serial numbers, and flight cycles on certain THSAs; and repetitive replacement of certain THSAs. The THSA limitation task specified in this proposed AD addresses the actions required by AD 2016–15–01. Paragraph (j)(1) of this proposed AD therefore terminates AD 2016–15–01, for Model A300–600 series airplanes only.

The FAA is proposing this AD to address the risks associated with the effects of aging on airplane systems. The unsafe condition, if not addressed, could change system characteristics, leading to an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane. You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2022–1660.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0194, which specifies new or more restrictive airworthiness limitations for certain THSAs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

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 revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2022–0194 described previously, as incorporated by reference. Any differences with EASA AD 2022–0194 are identified as exceptions in the regulatory text of this proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (k)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0194 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0194 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0194 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0194. Service information required by EASA AD 2022–0194 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1660 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOC paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 128 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA has 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 SAS: Docket No. FAA–2022–1660; Project Identifier MCAI–2022–01268–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 27, 2023.

(b) Affected ADs

This AD affects AD 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016) (AD 2016–15–01); and AD 2018–18–21, Amendment 39–19400 (83 FR 47054, September 18, 2018) (AD 2018–18–21).

(c) Applicability

This AD applies to all Airbus SAS Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes, Model A300 B4–605R and B4–622R airplanes; and Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R and F4–622R airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the risks associated with the effects of aging on airplane systems. The unsafe condition, if not addressed, could change system characteristics, leading to an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0194, dated September 23, 2022 (EASA AD 2022–0194).

(h) Exceptions to EASA AD 2022–0194

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2022–0194.

(2) Paragraph (3) of EASA AD 2022–0194 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0194 is on or before the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0194, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraph (4) of EASA AD 2022–0194.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0194.

(i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0194.

(j) Terminating Actions for AD 2016–15–01 and AD 2018–18–21

(1) Accomplishing the actions required by this AD terminates all requirements of AD 2016–15–01 for Model A300–600 series airplanes only.

(2) Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2018–18–21, for the tasks identified in the service information referenced in EASA AD 2022–0194 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

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

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0194, dated September 23, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0194, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–28613 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AR48

Copayment Exemption for Indian Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its medical regulations to implement a statute exempting Indian and urban Indian veterans from copayment requirements for the receipt of hospital care or medical services, including the initial three urgent care visits in a calendar year, under laws administered by VA.

DATES: Comments must be received on or before February 13, 2023.

ADDRESSES: Comments must be submitted through *www.regulations.gov.* Except as provided below, comments received before the close of the comment period will be available at *www.regulations.gov* for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* VA will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking.

FOR FURTHER INFORMATION CONTACT: Mark Upton, Acting Deputy to the Deputy Under Secretary for Health, Office of the Deputy Under Secretary for Health (10A), 810 Vermont Avenue NW, Washington, DC 20420, 202–461–7459. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Pursuant to section 1730A of title 38, United States Code (U.S.C.), catastrophically disabled veterans are exempt from copayment for the receipt of hospital care or medical services under laws administered by VA. On January 5, 2021, the President signed into law the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (the ''Act''). Public Law 116–315. Section 3002 of the Act amended section 1730A to add a copayment exemption for veterans who are either Indian or urban Indian, as those terms are defined in section 4 of the Indian Health Care Improvement Act. This amendment to section 1730A took effect one year after the date of enactment of the Act (that is, the statutory amendment became effective on January 5, 2022). In accordance with 38 U.S.C. 1730A, this rulemaking is using the terms Indian and urban Indian as provided in 38 U.S.C. 1730A and as defined in 25 U.S.C. 1603(13) and (28). This rulemaking proposes to revise several VA regulations concerning copayment exemptions to be consistent with the amendment made to 38 U.S.C. 1730A by section 3002 of the Act.

Definitions of Indian and Urban Indian

As explained above, section 3002 of the Act defines Indian and urban Indian based on those terms' definitions in section 4 of the Indian Health Care Improvement Act for purposes of copayment exemption under 38 U.S.C. 1730A. Section 4 of the Indian Health Care Improvement Act is codified at 25 U.S.C. 1603, and the definitions for Indian and urban Indian are located in paragraphs 13 and 28, respectively, of section 1603.

Paragraph 13 of section 1603 defines the term Indians or Indian as any person who is a member of an Indian tribe, as that term is further defined in section 1603(14), except that, for the purpose of 25 U.S.C. 1612 and 1613, such terms

shall mean any individual who: (1) irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (2) is an Eskimo or Aleut or other Alaska Native; (3) is considered by the Secretary of the Interior to be an Indian for any purpose; or (4) is determined to be an Indian pursuant to regulations promulgated by the Secretary of Health and Human Services.

Section 1603(13) refers to members of an Indian tribe in the definition of Indian. Section 1603(14) defines Indian tribe to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 *et seq.*], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. For purposes of this rulemaking, when VA uses the term Indian tribe in this rulemaking, it is doing so to be consistent with, and to incorporate, the definition of Indian tribe in section 1603(14).

Paragraph 28 of section 1603 defines the term urban Indian as any individual who resides in an urban center (as such term is further defined in section 1603(27)) and who meets at least one or more of the four criteria in the definition of Indian in 25 U.S.C. 1603(13) (as described above in a previous paragraph regarding the definition of Indians or Indian).

For purposes of implementing the copayment exemption for Indian and urban Indian veterans as required by 38 U.S.C. 1730A, VA is using the definitions of Indian and urban Indian in 25 U.S.C. 1603(13) and (28). Doing so ensures that VA is adhering to the statutory definitions referenced in section 1730A and will allow VA to immediately implement any changes made by Congress to those definitions without requiring amendment to the definitions of Indian and urban Indian in VA's medical regulations. As explained subsequently in this rulemaking, we propose to revise §§ 17.108, 17.110, 17.111 and 17.4600 of title 38, Code of Federal Regulations (CFR) to include these definitions of Indian and urban Indian under section 1603(13) and (28).

Documentation

In identifying ways in which VA could determine whether a veteran meets the definition of Indian or urban Indian under 25 U.S.C. 1603(13) and (28) for purposes of copayment exemption under 38 U.S.C. 1730A, VA sought input and guidance from American Indian and Alaska Native tribal governments and individuals who may be considered to meet the definition of Indian and urban Indian under section 1730A. On April 1, 2021, VA published a **Federal Register** (FR) notice of a virtual tribal consultation session scheduled for April 29, 2021, regarding documentation that can be used by VA's health care system to identify those veterans who are considered to meet the definition of the terms Indian and urban Indian under section 1730A. *See* 86 FR 17267. The **Federal Register** notice further explained that related written comments may also be submitted to VA before May 29, 2021. Ninety-six individuals, including representatives from American Indian and Alaska Native tribal governments and veterans, attended the virtual consultation session on April 29, 2021, and more than twenty attendees provided feedback during the session. VA also received eighteen written comments from various sources including American Indian and Alaska Native tribal governments and American Indian and Alaska Native health organizations.

The majority of the comments, including comments from American Indian and Alaska Native tribal governments, supported submission of documentation (*e.g.,* tribal letter, tribal enrollment card, Certificate of Degree of Indian Blood, enhanced tribal identification card, kinship report). Some commenters supported veteran self-certification. Some commenters recommended American Indian and Alaska Native tribal governments determine the documentation VA should accept, rather than VA determining the appropriate documentation. Other commenters recommended VA adopt the same documentation requirements of the Indian Health Service (IHS).

A recording of the April 29, 2021, virtual consultation session can be found at: *https://vacctraining.adobeconnect.com/pz8n69p0aov1/.* The written comments received from this notice are publicly available online at *www.regulations.gov.*

Based on the feedback VA received from consultation that supported requiring veterans submit documentation, VA proposes that, for purposes of exempting from copayment veterans who meet the definition of the terms Indian and urban Indian under section 1730A, VA will require documentation from a veteran that they are an Indian or urban Indian as those terms are defined in 25 U.S.C. 1603(13) and (28). VA proposes to require documentation as this recognizes tribal sovereignty and promotes the Nation-to-Nation relationship that exists between the United States and tribal governments. As the vast majority of comments from American Indian and Alaska Native tribal governments supported documentation, requiring documentation would be consistent with the preferences of tribal leaders. American Indian and Alaska Native tribal governments recognize their members and provide individual members with documentation to recognize that they are members of an American Indian and Alaska Native tribe. This approach would acknowledge each tribal government's right to determine their tribal membership and how best to substantiate it.

Further, requiring veterans to submit documentation would also align with how other Federal agencies, such as IHS, determine eligibility for benefits or services. When determining eligibility for benefits or service based on status as a member of an American Indian or Alaska Native tribe, Federal agencies may accept documentation issued by American Indian and Alaska Native tribal governments to tribal members to show membership in the tribe. VA would defer to the American Indian and Alaska Native tribal governments with respect to the documentation showing who is a tribal member, as described later in this discussion which, as noted above, is consistent with IHS practices. While some commenters suggested American Indian and Alaska Native tribal governments determine the documentation that is required to meet the definitions of Indian and urban Indian under 25 U.S.C. 1603(13) and (28), part of VA's responsibility is to ensure that those who are eligible for the copayment exemption under 38 U.S.C. 1730A receive that benefit and that the documentation submitted meets the definitions in the law. VA reiterates that it would defer to the American Indian and Alaska Native tribal governments as to the documentation that they provide to their members to submit to VA to demonstrate they meet those definitions of Indian and urban Indian.

While some commenters supported self-attestation, VA believes that self-attestation presents an unreasonable risk

that VA would provide the copayment exemption to veterans who do not meet the legal definition of Indian or urban Indian under section 1603(13) and (28) as the definition of Indian and urban Indian under section 1603(13) and (28) may be inaccurately interpreted by veterans. This confusion and misunderstanding of whether a veteran would meet the definition of Indian or urban Indian may result in good-faith but mistaken self-attestations resulting in VA paying benefits to individuals who are not eligible. Requiring documentation rather than self-attestation would allow VA to ensure through audits that it is fulfilling its duty to only exempt those veterans who are eligible pursuant to section 1730A. For these reasons, VA believes documentation would be appropriate to ensure that this copayment exemption is administered only to veterans eligible for it under 38 U.S.C. 1730A.

Documentation VA proposes to accept to verify an individual meets the definition of Indian or urban Indian under 25 U.S.C. 1603(13) and (28) would be as follows:

(1) Documentation issued by a federally-recognized Indian tribe that shows that a veteran is a member of the tribe;

(2) Documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(3) Documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native;

(4) Documentation issued by the U.S. Department of the Interior (DOI) showing that the veteran is considered by DOI to be an Indian for any purpose;

(5) Documentation showing that the veteran is considered by the U.S. Department of Health and Human Services (HHS) to be an Indian under that Department's regulations;

(6) Documentation showing that the veteran resides in an urban center and meets one or more of the following criteria:

(a) Irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(b) Is an Eskimo or Aleut or other Alaska Native;

(c) Is considered by DOI to be an Indian for any purpose; or

(d) Is considered by HHS to be an Indian under that Department's regulations.

VA believes that all veterans who are Indian and urban Indian pursuant to the definitions in 25 U.S.C. 1603(13) and (28) would be able to obtain and submit to VA the documents listed above that are applicable to their status in order to establish their status as Indian or urban Indian. It is important to note that any documentation submitted to VA would be safeguarded and protected consistent with all applicable privacy and security laws.[1] As American Indian and Alaska Native tribal governments issue a variety of documents to demonstrate an individual's membership in a federally-recognized Indian tribe, VA would accept documentation issued by a federally-recognized Indian tribe that shows that a veteran is a member of the tribe. This would include, for example, cards issued by a federally-recognized Indian tribe showing that the veteran is a member of that tribe or documentation issued by a federally-recognized Indian tribe on tribal letterhead that shows that a veteran is a member of the tribe. Submission of such documentation would be required to show that a veteran meets the definition of Indian in 25 U.S.C. 1603(13). VA notes that as explained previously, VA proposes to use the definition of Indian tribe in 25 U.S.C. 1603(14) for purposes of defining the term Indian tribe.

VA would accept documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member. Submission of such documentation would show that a veteran meets the definition of Indian in 25 U.S.C. 1603(13), specifically that the individual, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member. See 25 U.S.C. 1603(13)(A). This would include those veterans who are members of a State-recognized Indian tribe or formerly federally-recognized Indian tribe.

VA would accept documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native. Submission of such documentation would show that a veteran meets the definition of Indian in 25 U.S.C. 1603(13), specifically that the individual is an Eskimo or Aleut or other Alaska Native. See 25 U.S.C. 1603(13)(B).

DOI and HHS issue documentation that may show a veteran meets the definition of Indian. Thus, VA would accept documentation issued by DOI that shows that the veteran is considered by DOI to be an Indian for any purpose. Submission of such documentation would show that a veteran meets the definition of Indian in 25 U.S.C. 1603(13), specifically that the individual is considered by the Secretary of Interior to be an Indian for any purpose. See 25 U.S.C. 1603(13)(C). VA would also accept documentation that shows that the veteran is considered by HHS to be an Indian under that Department's regulations. Submission of such documentation would show that a veteran meets the definition of Indian in 25 U.S.C. 1603(13), specifically that the individual is determined to be an Indian under regulations promulgated by the Secretary [of HHS]. See 25 U.S.C. 1603(13)(D).

To be eligible for the copayment exemption under 38 U.S.C. 1730A, veterans would also be able to submit documentation showing that they reside in an urban center and meet one or more of the following criteria: (a) Irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (b) Is an Eskimo or Aleut or other Alaska Native; (c) is considered by DOI to be an Indian for any purpose; or (d) Is considered by HHS to be an Indian under HHS regulations. Submission of such documentation would show that a veteran meets the definition of urban Indian in 25 U.S.C. 1603(28). As the definition of urban Indian in section 1603(28) refers to and incorporates (A) through (D) of the definition of Indian in section 1603(13), VA acknowledges that urban Indians would be able to meet both the definition of Indian and urban Indian and would be able to submit documentation that shows they meet both of these definitions. However,

[1] VA's privacy policy—*www.va.gov/privacy-policy/*.

a veteran would only be required to submit documentation that show that they meet one definition. VA believes the proposed list of documentation to show a veteran meets the definition of Indian would likely capture those who meet the definition of urban Indian. However, to be consistent with 38 U.S.C. 1730A, VA would add a separate category of documentation for those veterans that meet the definition of urban Indian under section 1603(28). VA seeks input during the comment period from Indian and urban Indian veterans and American Indian and Alaska Native tribal governments on whether there is any other documentation VA should consider including in this proposed list of documentation to show that a veteran meets the definition of urban Indian.

This new copayment exemption would not be automatic; regardless of whether a veteran is already enrolled in VA health care or is enrolling in VA health care for the first time, the veteran would need to submit documentation to VA. Until veterans submit documentation that confirms that they meet the definition of the term Indian or urban Indian under 25 U.S.C. 1603(13) and (28), VA would be unable to exempt such veterans from copayments. However, once the documentation is submitted and processed, VA would exempt the veteran from copayments unless and until they notify VA that they no longer meet the definition of Indian or urban Indian under section 1603(13) and (28) or VA determines that the veteran does not meet the definition of Indian or urban Indian as defined in section 1603(13) and (28).

Covered Services

As previously discussed, 38 U.S.C. 1730A exempted those veterans determined to be catastrophically disabled from copayments for hospital care and medical services prior to the Act. Section 3002 of the Act amended section 1730A to add veterans who meet the definition of the terms Indian and urban Indian as covered veterans exempt from copayments for hospital care and medical services. VA considers the terms hospital care and medical services as defined in 38 U.S.C. 1701(5) and (6) and in 38 CFR 17.30(a).

The copayment exemptions for catastrophically disabled veterans, as authorized under 38 U.S.C. 1730A, were implemented in 38 CFR 17.108, 17.110, and 17.111. Section 17.108 sets forth the copayments for inpatient hospital care and outpatient medical care and exempts catastrophically disabled veterans from copayments for such care. Section 17.110 sets forth the copayments for medication provided by VA on an outpatient basis (other than medication administered during treatment) and exempts catastrophically disabled veterans from copayments for such medication. Section 17.111 sets forth the copayments for extended care services and exempts catastrophically disabled veterans from copayments for adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care.

In addition to ''hospital care'' and ''medical services,'' veterans exempted from copayments under section 1730A are also exempt from copayments for at least two visits to qualifying non-Department providers for urgent care in a year. *See* 38 U.S.C. 1725A(f)(1)(B). However, VA has the authority to require copayments for this care for such veterans after the second urgent care visit in a year. *Id.* VA has exercised this authority and requires veterans otherwise exempt from copayments, including veterans exempt pursuant to 38 U.S.C. 1730A, to pay copayments for urgent care from qualifying non-Department providers after the third urgent care visit in a calendar year. The copayments for urgent care under 38 U.S.C. 1725A are established separately in § 17.4600(d).

VA utilizes the authority provided under section 1725A to require copayments for all veterans, irrespective of their priority group in VA enrollment, level of service-connected disability, or designation as catastrophically disabled, after the first three visits in a calendar year because the copayment is designed to encourage appropriate use of the benefit. Collecting a copayment after the third visit helps ensure that the urgent care benefit is utilized appropriately and is not being used as a substitute for primary care. Copayments are a common feature of health care, including VA health care, and are an important mechanism for guiding behavior to ensure that patients receive care at an appropriate location. The urgent care copayment is designed to encourage all veterans to seek care from VA first, when VA can provide the needed care, and to utilize urgent care when prompt treatment is necessary to prevent the condition from becoming emergent. Urgent care is considered to be a convenient option for care but is not intended to be used as a substitute for traditional primary care that emphasizes longitudinal management and care coordination.

As section 3002 of the Act amended 38 U.S.C. 1730A to include veterans who meet the definition of the terms Indian and urban Indian as copayment exempt, with no distinction between this new cohort and those considered catastrophically disabled with regards to the care for which these copayments are exempted, VA would interpret the copayment exemption for veterans who meet the definition of the terms Indian and urban Indian under section 1730A the same as VA has for catastrophically disabled veterans. Thus, as explained later in this discussion, VA proposes to amend 38 CFR 17.108, 17.110, and 17.111 to include veterans who meet the definition of the terms Indian and urban Indian as exempt from copayment for inpatient hospital care, outpatient medical care, outpatient medications, adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. However, these veterans would still be required to pay copayments for domiciliary care, institutional respite care, institutional geriatric evaluation, and nursing home care. Similarly, consistent with how VA applies copayment exemptions for catastrophically disabled veterans for urgent care visits, VA proposes to amend the urgent care copayment regulation at § 17.4600(d)(1) to include veterans who meet the definition of the terms Indian and urban Indian to ensure that these veterans are not charged a copayment until their fourth urgent care visit.

The changes VA proposes to make to 38 CFR part 17 are explained in more detail below in the section describing the regulations proposed to be amended.

Retroactive Copayment Reimbursement

In order to allow time for veterans to learn about this new benefit and submit to VA documentation that verifies they meet the definition of Indian or urban Indian under 25 U.S.C. 1603(13) and (28), VA proposes to reimburse Indian and urban Indian veterans for copayments paid to VA for hospital care, medical services, and urgent care provided on or after January 5, 2022, if they would have been exempt from making such copayments if this regulation had been in effect. This would also allow these veterans to be reimbursed for copayments that were paid for such care provided on or after January 5, 2022, irrespective of when this rulemaking is published and effective or when these veterans submit their documentation for processing.

After a veteran submits to VA the required documentation, VA would review the documentation to determine if the veteran meets the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28). If the veteran meets the definition of Indian or urban Indian under 25 U.S.C. 1603(13) and (28), the veteran's record would be updated to

reflect their Indian or urban Indian status so that future copays are not charged. VA would then process reimbursement payments for any copayments that were paid for hospital care, medical services, and urgent care provided on or after January 5, 2022. VA would not require veterans to submit claims for reimbursement of copayments for such care. However, veterans would not be prohibited from submitting claims for reimbursement. If VA would be unable to determine the veteran meets the definition of Indian or urban Indian as defined in 25 U.S.C. 1603(13) and (28) based on the submitted documentation, VA would notify the veteran of such determination.

Regulations To Be Amended

As previously explained, VA has implemented regulations concerning copayments for hospital care and medical services at 38 CFR 17.108, 17.110, 17.111, and 17.4600. In this rulemaking, VA proposes to amend these regulations to align with the statutory requirement to exempt from copayment veterans who are an Indian or urban Indian as those terms are defined in section 4 of the Indian Health Care Improvement Act.

Section 17.108

Copayments for inpatient hospital care and outpatient medical care are established in 38 CFR 17.108. Paragraph (d) of § 17.108 lists categories of veterans who are not subject to the copayment requirements of this section. VA proposes to amend § 17.108(d) by adding a new paragraph (14). Proposed paragraph (14) explains that a veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28), would be exempt from copayment under this section. In addition, it would include language explaining that the exemption is applicable for care provided on or after January 5, 2022. This is consistent with 38 U.S.C. 1730A, as amended by section 3002 of the Act which exempts these veterans from copayments for care received on or after January 5, 2022.

Proposed paragraph (14) would further inform veterans that to demonstrate they meet the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28), they must submit to VA any of the following documentation: (i) documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe; (ii) documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (iii) documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native; (iv) documentation issued by DOI showing that the veteran is considered by DOI to be an Indian for any purpose; (v) documentation showing that the veteran is considered by HHS to be an Indian under that Department's regulations; or (vi) documentation showing that the veteran resides in an urban center and meets one or more of the following criteria: (A) irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (B) is an Eskimo or Aleut or other Alaska Native; (C) is considered by DOI to be an Indian for any purpose; or (D) is considered by the HHS to be an Indian under that Department's regulations.

VA also proposes to amend § 17.108 by adding a new paragraph (g) to explain that after VA determines the documentation submitted by the veteran meets paragraph (d)(14) and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA would reimburse veterans exempt under paragraph (d)(14) of this section for any copayments that were paid to VA for inpatient hospital care and outpatient medical care provided on or after January 5, 2022, if they would have been exempt from making such copayments if this regulation had been in effect.

Section 17.110

Copayments for medications are established in 38 CFR 17.110. Paragraph (c) of § 17.110 lists medications that are not subject to the copayment requirements of this section. Similar to the proposed amendments to § 17.108, VA proposes to amend § 17.110(c) by adding paragraph (13) to include as exempt from copayment under such section a veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28), for medications provided on or after January 5, 2022.

In addition, VA would include in proposed § 17.110(c)(13) the same language under § 17.108(d)(14) to inform veterans that to demonstrate they meet the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28), the veteran must submit to VA any of the following documentation: (i) documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe; (ii) documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (iii) documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native; (iv) documentation issued by DOI showing that the veteran is considered by DOI to be an Indian for any purpose; (v) documentation showing that the veteran is considered by HHS to be an Indian under that Department's regulations; or (vi) documentation showing that the veteran resides in an urban center and meets one or more of the following criteria: (A) irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (B) is an Eskimo or Aleut or other Alaska Native; (C) is considered by DOI to be an Indian for any purpose; or (D) is considered by HHS to be an Indian under that Department's regulations.

VA also proposes to add paragraph (d) to § 17.110 to state that after VA determines the documentation submitted by the veteran meets paragraph (c)(13) and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA would reimburse veterans exempt under paragraph (c)(13) of this section for any copayments that were paid to VA for medications provided on or after January 5, 2022 if they would have been exempt from making such copayments if this regulation had been in effect.

Section 17.111

Copayments for extended care services are established in § 17.111. Section 17.111(f) lists categories of veterans and care that are not subject to the copayment requirements of this section. While 38 U.S.C. 1730A only exempts Indian and urban Indian veterans from copayments for hospital care and medical services, noninstitutional extended care services are included in the definition of medical

services. 38 U.S.C. 1701(6)(E); 38 CFR 17.38(a)(1)(xi). Similar to the proposed amendments to §§ 17.108 and 17.110, VA proposes to add a new paragraph (11) to § 17.111(f) to include, as exempt from copayment under such section, a veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28), for adult day health care, noninstitutional respite care, and noninstitutional geriatric evaluation provided on or after January 5, 2022.

VA also proposes to add language to inform veterans that to demonstrate they meet the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28), they must submit to VA any of the following documentation: (i) documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe; (ii) documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (iii) documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native; (iv) documentation issued by DOI showing that the veteran is considered by DOI to be an Indian for any purpose; (v) documentation showing that the veteran is considered by HHS to be an Indian under that Department's regulations; or (vi) documentation showing that the veteran resides in an urban center and meets one or more of the following criteria: (A) irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (B) is an Eskimo or Aleut or other Alaska Native; (C) is considered by DOI to be an Indian for any purpose; or (D) is considered by HHS to be an Indian under that Department's regulations.

VA proposes to add a new paragraph (g) to 38 CFR 17.111 to explain that after VA determines the documentation submitted by the veteran meets paragraph (f)(11) and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA would reimburse veterans exempt under paragraph (f)(11) of this section for any copayments that were paid to VA for adult day health care, noninstitutional respite care, and noninstitutional geriatric evaluation provided on or after January 5, 2022, if they would have been exempt from making such copayments if this regulation had been in effect.

Section 17.4600

VA also proposes to amend 38 CFR 17.4600 for purposes of urgent care visits. Pursuant to 38 U.S.C. 1725A(f)(1)(B), an eligible veteran not required to pay a copayment under title 38, U.S.C., may access urgent care without a copayment for the first two visits in a calendar year. For any additional visits, a copayment at an amount determined by VA may be required. The implementing regulation for 38 U.S.C. 1725A is 38 CFR 17.4600. Section 17.4600(d)(1)(i) explains that certain veterans are exempt from copayment for the first three urgent care visits in a calendar year, but must pay a copayment after those first three visits. VA has determined that a veteran who meets the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28), based on the documentation the veteran has submitted, should not be required to pay a copayment for the first three visits in a calendar year. This would be consistent with how VA implements copayments for urgent care visits by catastrophically disabled veterans. VA proposes to amend 38 CFR 17.4600(d)(1) by redesignating current paragraph (ii) as (iii) and adding new paragraph (ii) to exempt from copayment the initial three urgent care visits in a calendar year of a veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28).

VA also proposes to add language to 38 CFR 17.4600(d)(1)(ii) to inform veterans that to demonstrate that they meet the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28), they must submit to VA any of the following documentation: (A) documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe; (B) documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; (C) documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native; (D) documentation issued by DOI showing that the veteran is considered by DOI to be an Indian for any purpose; (E) documentation showing that the veteran is considered by HHS to be an Indian under that Department's regulations; or (F) documentation showing that the veteran resides in an urban center and meets one or more of the following criteria: *(1)* irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member; *(2)* is an Eskimo or Aleut or other Alaska Native; *(3)* is a considered by DOI to be an Indian for any purpose; or *(4)* is considered by HHS to be an Indian under that Department's regulations.

VA also proposes to amend 38 CFR 17.4600(d)(2), which explains that an eligible veteran who receives urgent care under § 17.4600(b)(5)(iv) or urgent care consisting solely of an immunization against influenza (flu shot) is not subject to a copayment under § 17.4600(d)(1) and such a visit shall not count as a visit for purposes of § 17.4600(d)(1)(i). Because VA proposes to add new paragraph (d)(1)(ii) which is similar to (d)(1)(i) in exempting certain eligible veterans from copayment for the initial three urgent care visits in a calendar year, VA also proposes to add paragraph (d)(1)(ii) so that veterans who meet the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28) are treated the same for purposes of paragraph (d)(2).

VA also proposes to add paragraph (d)(4) to § 17.4600 to state that after VA determines the documentation submitted by the veteran meets § 17.4600(d)(1)(ii) and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA would reimburse veterans exempt under paragraph (d)(1)(ii) of this section for any copayments that were paid to VA for the first three visits for urgent care in a calendar year provided on or after January 5, 2022 if they would have been exempt from making such copayments if this regulation had been in effect.

While there are veterans exempt from copayment under 38 CFR 17.108, 17.110, 17.111, and 17.4600 who have been assigned a specific Priority Group (for example, catastrophically disabled veterans are in Priority Group 4), section 3002 of the Act did not change VA's system for enrolling veterans who meet the definition of Indian or urban Indian in 25 U.S.C. 1603(13) and (28) in the VA health care system and assigning them to a Priority Group. VA is thus not proposing to make any changes to the

Priority Groups as set forth in 38 CFR 17.36.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this proposed rule is a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This rule would not cause a significant economic impact on small entities since this exemption is limited to individual veterans who VA determines to be Indian or urban Indian. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule includes provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

OMB assigns control numbers to collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Sections 17.108, 17.110, 17.111, and 17.4600 would require documentation be submitted by veterans to be eligible for copayment exemption as an Indian or urban Indian. If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing the collection of information or take such other action as is directed by OMB.

Comments on the new collection of information contained in this rulemaking should be submitted through *www.regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AR48, Copayment Exemption for Indian Veterans'' and should be sent within 30 days of publication of this rulemaking. The collection of information associated with this rulemaking can be viewed at: *www.reginfo.gov/public/do/PRAMain.*

OMB is required to make a decision concerning the collection of information contained in this rulemaking between 30 and 60 days after publication of this rulemaking in the **Federal Register** (FR). Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the provisions of this rulemaking.

The Department considers comments by the public on new collection of information in—

- Evaluating whether the new collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the new collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The collection of information associated with this rulemaking contained in 38 CFR 17.108, 17.110, 17,111, 17.4600 is described immediately following this paragraph, under its respective title.

Title: Documentation of Indian or urban Indian status.

OMB Control No: 2900–XXXX (New/TBD).

CFR Provision: 38 CFR 17.108, 17.110, 17,111, 17.4600.

- *Summary of collection of information:* The new collection of information in 38 CFR 17.108, 17.110, 17.111, and 17.4600 would require veterans to submit certain documentation to VA as evidence that they meet the definition of Indian or urban Indian as defined in 25 U.S.C. 1603(13) and (28).
- *Description of need for information and proposed use of information:* The information will be used by VA to determine if a veteran meets the definition of Indian or urban Indian as defined in 25 U.S.C. 1603(13) and (28) for purposes of exempting these veterans from copayment for certain health care.
- *Description of likely respondents:* Veterans.
- *Estimated number of respondents:* 25,000.
- *Estimated frequency of responses:* One time.
- *Estimated average burden per response:* 15 minutes.
- *Estimated total annual reporting and recordkeeping burden:* 6,250 hours.
- *Estimated cost to respondents per year:* VA estimates the annual cost to (respondents, etc.) to be $175,062.50. Using VA's estimated annual number of Indian and urban Indian veterans applying for copayment exemption, VA estimates the total information collection burden cost to be $175,062.50 per year *. (6,250 burden hours for respondents × (multiplied by) $28.01 per hour).

* To estimate the total information collection burden cost, VA used the Bureau of Labor Statistics (BLS) mean hourly wage for hourly wage for ''00–0000 All Occupations'' of $28.01 per hour. This information is available at *https://www.bls.gov/oes/current/oes.nat.htm.*

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless,

Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on December 28, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as set forth below:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by adding entries for §§ 17.111 and 17.4600 in numerical order to read in part as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

Section 17.111 is also issued under 38 U.S.C. 101(28), 501, 1701(7), 1703, 1710, 1710B, 1720B, 1720D, 1722A, and 1730A.

* * * * *

Section 17.4600 is also issued under 38 U.S.C. 1725A and 1730A.

* * * * *

■ 2. Amend § 17.108 by adding paragraphs (d)(14) and (g), and the information collection control number to read as follows:

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

* * * * *

(d) * * *

(14) A veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28), for inpatient hospital care or outpatient medical care provided on or after January 5, 2022. To demonstrate that they meet the definition of Indian or urban Indian, the veteran must submit to VA any of the documentation listed in paragraphs (d)(14)(i) through (vi) of this section:

(i) Documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe;

(ii) Documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(iii) Documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native;

(iv) Documentation issued by the Department of Interior (DOI) showing that the veteran considered by DOI to be an Indian for any purpose;

(v) Documentation showing that the veteran is considered by the Department of Health and Human Services (HHS) to be an Indian under that Department's regulations; or

(vi) Documentation showing that the veteran resides in an urban center and meets one or more of the following criteria:

(A) Irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(B) Is an Eskimo or Aleut or other Alaska Native;

(C) Is considered by the Department of Interior to be an Indian for any purpose; or

(D) Is considered by HHS to be an Indian under that Department's regulations.

* * * * *

(g) *Retroactive copayment reimbursement.* After VA determines that the documentation submitted by the veteran meets the criteria in paragraph (d)(14) of this section and VA updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA will reimburse veterans exempt under paragraph (d)(14) for any copayments that were paid to VA for inpatient hospital care and outpatient medical care provided on or after January 5, 2022 if they would have been exempt from making such copayments if this regulation had been in effect.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–TBD.)

■ 3. Amend § 17.110 by adding paragraphs (c)(13) and (d), and the information collection control number to read as follows:

§ 17.110 Copayments for medication.

* * * * *

(c) * * *

(13) A veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28), for medications provided on or after January 5, 2022. To demonstrate that they meet the definition of Indian or urban Indian, the veteran must submit to VA any of the documentation listed in paragraphs (c)(13)(i) through (vi) of this section:

(i) Documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe;

(i) Documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(iii) Documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native;

(iv) Documentation issued by the Department of Interior (DOI) showing that the veteran is considered by DOI to be an Indian for any purpose;

(v) Documentation showing that the veteran is considered by the Department of Health and Human Services (HHS) to be an Indian under that Department's regulations; or

(vi) Documentation showing that the veteran resides in an urban center and meets one or more of the following criteria:

(A) Irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(B) Is an Eskimo or Aleut or other Alaska Native;

(C) Is considered by DOI to be an Indian for any purpose; or

(D) Is considered by HHS to be an Indian under that Department's regulations.

(d) *Retroactive copayment reimbursement.* After VA determines the submitted documentation meets paragraph (c)(13) of this section and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA will reimburse veterans exempt under paragraph (c)(13) for any copayments that were paid to VA for medications provided on or after January 5, 2022, if they would have been exempt from making such copayments if this regulation had been in effect.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–TBD.)

■ 4. Amend § 17.111 by adding paragraphs (f)(11) and (g), and the information collection control number to read as follows:

§ 17.111 Copayments for extended care services.

* * * * *

(f) * * *

(11) A veteran who meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28), is exempt from copayments for noninstitutional extended care including adult day health care, noninstitutional respite care, and noninstitutional geriatric evaluation provided on or after January 5, 2022. To demonstrate that they meet the definition of Indian or urban Indian, the veteran must submit to VA any of the documentation listed in paragraphs (f)(11)(i) through (vi) of this section:

(i) Documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe;

(ii) Documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(iii) Documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native;

(iv) Documentation issued by the Department of Interior (DOI) showing that the veteran is considered by DOI to be an Indian for any purpose;

(v) Documentation showing that the veteran is considered by the Department of Health and Human Services (HHS) to be an Indian under that Department's regulations; or

(vi) Documentation showing that the veteran resides in an urban center and meets one or more of the following criteria:

(A) Irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(B) Is an Eskimo or Aleut or other Alaska Native;

(C) Is considered by DOI to be an Indian for any purpose; or

(D) Is considered by HHS to be an Indian under that Department's regulations.

(g) *Retroactive copayment reimbursement.* After VA determines the submitted documentation meets paragraph (f)(11) of this section and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA will reimburse veterans exempt under paragraph (f)(11) for any copayments that were paid to VA for adult day health care, non-institutional respite care, and non-institutional geriatric evaluation provided on or after January 5, 2022, if they would have been exempt from making such copayments if this regulation had been in effect.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–TBD.)

■ 5. Amend § 17.4600 by:

■ a. Redesignating paragraph (d)(1)(ii) as (d)(1)(iii);

■ b. Adding new paragraph (d)(1)(ii);

■ c. Revising paragraph (d)(2);

■ d. Adding paragraph (d)(4);

■ e. Adding the information collection control number.

The additions and revision read as follows:

§ 17.4600 Urgent Care.

* * * * *

(d) * * *

(1) * * *

(ii) After three visits in a calendar year if such eligible veteran meets the definition of Indian or urban Indian, as defined in 25 U.S.C. 1603(13) and (28). To demonstrate that they meet the definition of Indian or urban Indian, the veteran must submit to VA any of the documentation listed in paragraphs (A) through (F):

(A) Documentation issued by a federally-recognized Indian tribe that shows that the veteran is a member of the tribe;

(B) Documentation showing that the veteran, irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(C) Documentation showing that the veteran is an Eskimo or Aleut or other Alaska Native;

(D) Documentation issued by the Department of Interior (DOI) showing that the veteran is considered by DOI to be an Indian for any purpose;

(E) Documentation showing that the veteran is considered by the Department of Health and Human Services (HHS) to be an Indian under that Department's regulations; or

(F) Documentation showing that the veteran resides in an urban center and meets one or more of the following criteria:

(*1*) Irrespective of whether they live on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member;

(*2*) Is an Eskimo or Aleut or other Alaska Native;

(*3*) Is considered by DOI to be an Indian for any purpose; or

(*4*) Is considered by HHS to be an Indian under that Department's regulations.

* * * * *

(2) An eligible veteran who receives urgent care under paragraph (b)(5)(iv) of this section or urgent care consisting solely of an immunization against influenza (flu shot) is not subject to copayment under paragraph (d)(1) of this section and such a visit shall not count as a visit for purposes of paragraph (d)(1)(i) or (ii) of this section.

* * * * *

(4) After VA determines the submitted documentation meets paragraph (d)(1)(ii) of this section and updates the veteran's record to reflect the veteran's status as an Indian or urban Indian, VA will reimburse eligible veterans exempt under paragraph (d)(1)(ii) for any copayments that were paid to VA for the first three visits for urgent care in a calendar year provided on or after January 5, 2022, if they would have been exempt from making such copayments if this regulation had been in effect.

* * * * *

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–TBD.)

[FR Doc. 2023–00364 Filed 1–11–23; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Caller Service—Customized Address

AGENCY: Postal Service™.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Postal Service is withdrawing the proposed rule that announced a new service feature, Caller Service—Customized Address, which would've allowed current Caller Service customers to omit their Post Office Box number from the address of the mailpiece.

DATES: The proposed rule published June 17, 2022 (87 FR 36432–36433) is withdrawn as of January 12, 2023.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at (202) 268–6592 or Doriane Harley at (202) 268–2537.

SUPPLEMENTARY INFORMATION: In the proposed rule that was published in the **Federal Register** (87 FR 36432–36433) on June 17, 2022, the Postal Service proposed to allow approved Caller Service customers with a unique 5-digit ZIP Code to add Customized Address by paying for the right to omit the PO Box number and replacing it with a different approved address line.

In consideration of concerns expressed by members of the mailing community during the proposed rule comment period, the Postal Service has elected to withdraw the proposed rule. Nevertheless, the Postal Service reserves the right to revisit this initiative at a later date.

Tram T. Pham,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–00433 Filed 1–11–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Commercial Mail Receiving Agencies

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) section 508.1.8, to update the regulations concerning Commercial Mail Receiving Agencies (CMRAs).

DATES: Submit comments on or before February 13, 2023.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Commercial Mail Receiving Agencies''. Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Judi Mummy at (858) 674–3155, Clayton Gerber at (202) 449–8076, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to revise DMM subsection 508.1.8 by reorganizing and revising the subsections in 508.1.8. These changes are occurring, in part because the Postal Service has developed an electronic database to collect and manage the information collected on PS Form 1583, Application for Delivery of Mail Through Agent, which has been collected and maintained as paper records. Following are the proposed changes to subsection 508.1.8.

Current subsections 508.1.8.1 through 1.8.4 will be renumbered as subsections 508.1.8.2 through 1.8.5. New subsection 508.1.8.1 will define what type of business is considered a CMRA and therefore must comply with the requirements in this section. The definitions are based on the type of service the business entity receives from the Postal Service. If an entity receives U.S. Mail for multiple customers and receives single point mail delivery from the Postal Service, it is considered a CMRA for purposes of complying with these requirements. There will be three specifically defined entities that must register as a CMRA and comply with these requirements: a CMRA that provides private mail boxes and accepts delivery of mail on behalf of another; an office business center (OBC) that provides private office facilities for others and receives single-point mail delivery from the Postal Service; and a reshipping or redelivery service that accepts delivery of mail on behalf of another for the purpose of reshipping or redelivering that mail either physically or electronically.

Renumbered subsection 1.8.2, *Procedures,* will be revised to require a CMRA owner must apply to operate a CMRA by submitting a completed PS Form 1583–A, *Application to Act as a Commercial Mail Receiving Agency,* and presenting acceptable, and not expired, form of Identification to the Post Office for review. If any of the information on PS Form 1583–A changes over time or becomes expired, the CMRA owner must submit an updated form to the Postal Service. The Postal Service will be scanning and uploading this form to the Postal Service's Facilities Database (FDB). The Postal Service will add a new item 1.8.2e to provide notice that CMRAs not in compliance with these regulations could be suspended and that CMRAs will have 30 days to come into compliance, and a new item 1.8.2f to affirmatively state that CMRAs and private mailboxes (PMBs) may not be used for criminal purposes.

Renumbered subsection 1.8.3, *Delivery to a CMRA,* will be revised to specify requirements related to PS Form 1583, *Application for Delivery of Mail Through Agent,* necessary with the implementation of the new CMRA Customer Registration Database. Item 1.8.3a will be revised to specify that a CMRA owner or manager will have to complete and submit a PS Form 1583 form themselves. Further, it will specify that spouses must each complete a separate PS Form 1583 if they both choose to receive mail at a single PMB address. The Postal Service is also specifying that the name and address information submitted on PS Form 1583 must match the photo and address verification documents provided with the application or the application will be rejected. Identification documents must be current (not expired). Any changes to the information on a PS Form 1583 will require the submission of a new PS Form 1583 and the CMRA owner must retain a copy of the identification documents submitted with the application. Item 1.8.3c will be revised to specify that CMRA owners or managers will be required to enter the data from PS Form 1583 and upload copies of the supporting documents into the Postal Service's electronic CMRA Customer Registration Database rather than provide paper copies to their local Post Office. Item 1.8.3h will be revised to specify that CMRA owners or managers must enter the date PMBs close into the CMRA Customer Registration Database and that any expired, illegible, or unclear documents are not acceptable and will not be considered in compliance. Item 1.8.3i will be revised to specify that CMRA owners or manager must certify the information they submitted in the CMRA Customer Registration Database is current each quarter, with certifications due 15 days after the end of each quarter. Item 1.8.3j will be

revised to specify that CMRAs will have 30 days to comply with deficiencies that are identified by the Postal Service. The Postal Service is proposing to add a new item 1.8.3l to specify that the CMRA may be directed by the Chief Postal Inspector to withhold mail from delivery to an individual PMB and return that mail to the Postal Service.

Renumbered subsection 1.8.4, *Addressee and CMRA Agreement,* will be updated to describe the procedures when the relationship between a CMRA and PMB holder end. Item 1.8.4a will be revised to specify that CMRA owners or managers must record when a PMB closes, enter that date in the CMRA Customer Registration Database, and that they must maintain their records for six months after the PMB is closed. Item 1.8.4b will be revised to specify that if a CMRA reships, or otherwise re-mails the mail addressed to a PMB, whether physically or electronically, the CMRA must record on PS Form 1583 and in the CMRA Customer Registration Database the address to where they reship, remail or transmit the customers mail. Additionally, if the mail is physically collected during the time period the PMB is active but remailed for the six month period after the PMB is closed, the remail address needs to be entered into the CMRA Customer Registration Database. Renumbered item 1.8.4d will be deleted as it is addressed in the revisions described above and item 1.8.4e will be deleted as to a separate provision for Restricted Mail, completion of a PS Form 1583 provides for an agent to receive all classes of mail. Items 1.8.4f and 1.8.4g will be renumbered as 1.8.4d and 1.8.4e.

The Postal Service is proposing to delete renumbered 1.8.5, *Office Business Center Acting as a CMRA,* since office business centers (OBCs) are defined as CMRAs for purposes of this regulation as specified in new subsection 1.8.1, *Commercial Mail Receiving Agency.*

The Postal Service is proposing to implement this change effective March 1, 2023.

We believe this proposed revision will provide customers with a more efficient process for establishing a CMRA.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED.]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633,3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

* * * * *

508 Recipient Services

1.0 Recipient Options

* * * * *

1.8 Commercial Mail Receiving Agencies

[Renumber 1.8.1 through 1.8.4 as 1.8.2 through 1.8.5 and add new 1.8.1 to read as follows:]

1.8.1 Commercial Mail Receiving Agency

The definition of a Commercial Mail Receiving Agency is as follows:

a. A Commercial Mail Receiving Agency (CMRA) is defined as a business that, in whole or in part, accepts the delivery of U.S. Mail on behalf of another person or entity as a business service. U.S. Mail is inclusive of all classes of mail.

b. An office business center (OBC) is a business that operates primarily to provide private office facilities and other business support services to individuals or firms (customers). OBCs receive single–point delivery. OBCs are considered CMRAs for postal purposes and must comply with DMM 508.1.8.

c. A business or individual that operates primarily to provide re-shipping or re-delivery services to individuals or firms (customers) is considered a CMRA for postal purposes and must comply with DMM 508.1.8.

1.8.2 Procedures

The procedures for establishing a commercial mail receiving agency (CMRA) are as follows:

* * * * *

b.

* * * * *

[Revise the second paragraph under renumbered item 1.8.2b to read as follows:]

The CMRA owner or manager must present acceptable primary and secondary forms of identification as specified under 608.10.0. The identifications presented must be current (not expired). These identifications must contain sufficient information to confirm that the applicant is who he or she claims to be and is traceable to the bearer. The postmaster (or designee) must list and record sufficient information to identify the two acceptable forms of identification on PS Form 1583–A (block 10).

[Revise the second sentence of the third paragraph under renumbered item 1.8.2b to read as follows:]

* * * If any information required on PS Form 1583–A changes, the CMRA owner or manager must file a new application with the postmaster.

[Revise the text of renumbered item 1.8.2c to read as follows:]

c. The postmaster (or designee) must verify the documentation to confirm that the CMRA owner or manager resides at the permanent home address shown on Form 1583–A; witness the signature of the CMRA owner or manager; and sign Form 1583–A. The postmaster must provide the CMRA owner or manager with a copy of the DMM regulations relevant to the operation of a CMRA under 1.8. The CMRA owner or manager must sign the Form 1583–A acknowledging receipt of the regulations. The postmaster must file the original of the completed Form 1583–A at the Post Office, scan and upload a copy into the Facilities Database (FDB) and provide the CMRA with a duplicate copy.

* * * * *

[*Revise the text of renumbered 1.8.2 by adding a new item e and f to read as follows:*]

e. CMRAs found not to be operating within the Postal Service regulations will be suspended from authorization to act as a CMRA until the CMRA is in compliance with the regulations. If compliance is not achieved within 30 days, the Postal Service may terminate the CMRA's authorization to accept mail on behalf of others.

f. CMRAs and Private Mail Boxes (PMBs) shall not be utilized for or in furtherance of criminal purposes.

1.8.3 Delivery to CMRA

Procedures for delivery to a CMRA are as follows:

[Revise the text of paragraphs one and two under renumbered item 1.8.3a to read as follows:]

a. Mail delivery to a CMRA requires that the CMRA owner or manager complete and sign PS Form 1583, Application for Delivery of Mail Through Agent, for themselves. Private Mail Boxes (PMBs) for residential/personal use must have a separate PS Form 1583 completed for each addressee. Spouses must each complete and sign a separate PS Form 1583. Each spouse must provide acceptable primary and secondary forms of identification as specified under 608.10.0.

A parent or guardian may receive delivery of a minor's mail by listing the name(s) of each minor on PS Form 1583 (block 11).

* * * * *

[Revise the text in the fourth and fifth paragraph under renumbered item 1.8.3a by combining the text into the fourth paragraph to read as follows:]

If information on the application does not match the identification, the CMRA must deny the application. Furnishing false information on the application or refusing to provide required information is reason for withholding the addressee's mail from delivery to the agent and returning it to the sender.

[Revise the text of the renumbered fifth and sixth paragraphs under renumbered item 1.8.3a to read as follows:]

When any information required on PS Form 1583 changes, the addressee must complete a new application with the CMRA. The addressee must provide acceptable primary and secondary forms of identification as specified under 608.10.0. The identification presented must be current (not expired). It must contain sufficient information to confirm that the applicant is who he or she claims to be and is traceable to the bearer.

The CMRA owner or manager must retain a photocopy of the two forms of identification for verification purposes. The CMRA owner or manager must list and record on PS Form 1583 (block 10) sufficient information to identify the acceptable primary and secondary forms of identification presented and write on PS Form 1583 (block 4) the complete CMRA delivery address used to deliver mail to the addressee.

* * * * *

[Revise the text of renumbered item 1.8.3c to read as follows:]

c. The CMRA must enter the information provided on each PS Form 1583 and upload a clear and legible copy of each identification document into the USPS CMRA Customer Registration Database. The CMRA must maintain completed PS Forms 1583 and a copy of each identification and address document on file at the CMRA business location. The PS Forms 1583 and supporting documents must be available at all times for examination by postal representatives and postal inspectors.

[Delete renumbered item 1.8.3d and renumber items e through j as items d through i.]

* * * * *

[Renumber items h and i as items j and k and add new items h and i to read as follows:]

h. The CMRA must ensure all its addressees (customers) have a current PS Form 1583 on file and updated as necessary in the USPS CMRA Customer Registration Database. Updates shall include the entry of termination dates for any PMBs closed in the previous quarter. Any expired, illegible, or unclear identification or address document uploaded into the CMRA Customer Registration Database shall be considered not in compliance.

i. The CMRA must certify in the USPS CMRA Customer Registration Database each quarter (due on January 15th, April 15th, July 15th, and October 15th), that every PS Forms 1583 it has submitted is current, all termination dates have been updated and no identification documents are expired.

[Revise the last sentence of renumbered item j to read as follows:]

* * * The proper notification must be in writing outlining the specific violation(s) with a 30-day period to comply.

* * * * *

[Revise the text of 1.8.3 by adding a new item l to read as follows:]

l. The Chief Postal Inspector or their designee may issue an emergency mail withholding order to withhold mail to any PMB Holder that is suspected of utilizing a CMRA and/or PMB for any activity that is in violation of United States Code Title 18 or Title 39 and that the mail be returned to sender, forwarded to the mail recovery center, or otherwise in accordance with a court order. The CMRA must give the mail addressed to the withheld PMB to the letter carrier or return it to the Post Office responsible for delivery to the CMRA the next business day after receipt.

1.8.4 Addressee and CMRA Agreement

In delivery of the mail to the CMRA, the addressee and the CMRA agree that:

[Revise the text of renumbered 1.8.4a by adding new second through fifth sentences to read as follows:]

a. * * * The CMRA must write the date of termination on its copy of PS Form 1583. The CMRA must enter the date of termination in the USPS CMRA Customer Registration Database as soon as practical. The CMRA must retain the endorsed copies of PS Forms 1583 for 6 months after the termination date. PS Forms 1583 filed at the CMRA business location must be available at all times for examination by postal representatives and the postal inspectors.

[Revise the text of item b by adding a new second through sixth sentences to read as follows:]

* * * The remail of mail intended for the addressee (customer) is the responsibility of the CMRA. This includes at least a 6–month period after the termination date of the agency relationship between the CMRA and the addressee. The addressee (customer) shall provide the remail address (or email if correspondence is scanned for digital delivery) on PS Form 1583. The remail address shall be entered into the USPS CMRA Customer Registration Database. If the addressee collects their mail in person at the CMRA but elects to have their mail remailed for the 6-month post-termination period, the CMRA shall record this remail address on their copy of PS Form 1583 and enter this remail address in the USPS CMRA Customer Registration Database with the date of termination. * * *

* * * * *

[Revise the text of renumbered 1.8.4 by deleting item d and renumbering items e through g as items d through f.]

[Revise the text of renumbered item d by deleting the second and third sentences.]

* * * * *

[Delete renumbered item 1.8.5, Office Business Center Acting as a CMRA, in its entirety.]

* * * * *

Tram T. Pham,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–00437 Filed 1–11–23; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2022–0870; FRL–9148–01–R3]

Air Plan Approval; Virginia; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Richmond-Petersburg Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to the Commonwealth's plan, submitted by the Virginia Department of Environmental Quality (VADEQ), for maintaining the 1997 8-hour ozone national ambient air quality standards (NAAQS) (referred to as the ''1997 ozone NAAQS'') in the Richmond, Virginia Area (Richmond-Petersburg Area). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before February 13, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2022–0870 at *www.regulations.gov,* or via email to *Gordon.Mike@epa.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*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, 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 *www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at *Nichols.Serena@epa.gov*.

SUPPLEMENTARY INFORMATION: On September 21, 2021, the VADEQ submitted a revision to the Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS in the Richmond-Petersburg Area through December 31, 2028, in accordance with CAA section 175A.

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),[1] EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated the Richmond-Petersburg Area as nonattainment for the 1997 ozone NAAQS. The Richmond-Petersburg Area consists of the counties of Charles City, Chesterfield, Hanover, Henrico, and Prince George, and the cities of Colonial Heights, Hopewell, Richmond, and Petersburg.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),[2] the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as ''maintenance areas.'' One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well as contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On June 1st, 2007 (72 FR 30485), EPA approved a redesignation request (and maintenance plan) from VADEQ for the Richmond-Petersburg Area for the 1997 ozone NAAQS. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.,* maintenance areas) for the 1997 ozone NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[3] See 80 FR 12315 (March 6, 2015). However, in *South Coast Air Quality Management District* v. *EPA*[4] (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for ''orphan maintenance areas,'' (*i.e.,* areas like the Richmond-Petersburg Area) that had been redesignated to attainment for the 1997 ozone NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these ''orphan maintenance areas'' under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA

[1] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

[2] The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

[3] See 80 FR 12315 (March 6, 2015).

[4] 882 F.3d 1138 (D.C. Cir. 2018).

has published longstanding guidance [5] that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The 1992 Calcagni Memo [6] provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). See 1992 Calcagni Memo at p. 9. EPA further clarified in three subsequent guidance memos describing ''limited maintenance plans'' (LMPs) [7] that the requirements of CAA section 175A could be met by demonstrating that the area's design value [8] was well below the NAAQS and that the historical stability of the area's air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on September 21, 2021, VADEQ submitted an LMP for the Richmond-Petersburg Area, following EPA's LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through December 31, 2028, *i.e.,* through the entire 20-year maintenance period.

II. Summary of SIP Revision and EPA Analysis

VADEQ's September 21, 2021 submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in EPA guidance, including the 1992 Calcagni Memo as follows.

A. Attainment Emissions Inventory

For maintenance plans, a state should develop a comprehensive and accurate inventory of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA's most recent guidance. For ozone, the inventory should be based on typical summer day's emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Richmond-Petersburg Area, VADEQ used 2005 for the attainment year inventory, because 2005 was one of the years in the 2003–2005 three-year period when the area first attained the 1997 ozone NAAQS.[9] The Richmond-Petersburg Area continued to monitor attainment of the 1997 ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.,* maintenance) of the NAAQS. Thus, VADEQ is using 2014 as representing attainment level emissions for its second maintenance plan. Virginia used 2014 summer day emissions from EPA's 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1 in this document.[10]

TABLE 1—2014 TYPICAL SUMMER DAY NO_X AND VOC EMISSIONS FOR THE RICHMOND-PETERSBURG AREA IN TONS/DAY

Area	Source category	NO_X emissions	VOC emissions
Charles City County	Fire	0.00	0.00
	Nonpoint	0.27	0.37
	Nonroad	0.35	0.91
	Onroad	0.30	0.21
	Point	0.44	0.27
Chesterfield County	Fire	0.01	0.08
	Nonpoint	1.86	9.10
	Nonroad	2.35	2.60
	Onroad	9.66	6.09
	Point	8.44	3.28
Colonial Heights City	Fire	0.00	0.00
	Nonpoint	0.09	0.48
	Nonroad	0.05	0.09
	Onroad	0.80	0.40
	Point	0.00	0.00
Hanover County	Fire	0.01	0.08
	Nonpoint	1.08	3.85
	Nonroad	1.37	2.07
	Onroad	7.19	2.56
	Point	1.96	1.45
Henrico County	Fire	0.00	0.00
	Nonpoint	2.04	8.54
	Nonroad	3.37	1.89
	Onroad	10.61	5.85

[5] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994;

[6] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (1992 Calcagni Memo).

[7] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001.

[8] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

[9] For more information, see EPA's April 12, 2007 document proposing to redesignate the Richmond-Petersburg Area to attainment for the 1997 ozone NAAQS, and the associated May 10, 2007 notice correcting table 5 in the proposal (72 FR 18434, 72 FR 26581).

[10] For more information, visit *www.epa.gov/sites/production/files/2018–11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx.*

TABLE 1—2014 TYPICAL SUMMER DAY NO_X AND VOC EMISSIONS FOR THE RICHMOND-PETERSBURG AREA IN TONS/DAY—Continued

Area	Source category	NO_X emissions	VOC emissions
	Point	1.26	0.29
Hopewell City	Fire	0.00	0.00
	Nonpoint	0.04	0.52
	Nonroad	0.09	0.16
	Onroad	0.55	0.45
	Point	26.62	2.48
Petersburg City	Fire	<0.01	0.00
	Nonpoint	0.48	1.25
	Nonroad	0.10	0.14
	Onroad	1.54	0.84
	Point	0.17	0.01
Prince George County	Fire	0.03	0.31
	Nonpoint	0.67	1.03
	Nonroad	0.48	1.18
	Onroad	2.75	1.03
	Point	0.14	0.01
Richmond City	Fire	0.00	0.00
	Nonpoint	1.34	6.59
	Nonroad	0.87	1.37
	Onroad	7.09	4.40
	Point	4.56	1.27

The data shown in Table 1 in this document is based on the 2014 National Emissions Inventory (NEI) version 2.[11] The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and onroad mobile sources. Point sources are stationary sources that have the potential to emit more than 100 tons per year (tpy) of VOC, or more than 50 tpy of NO_X, and which are required to obtain an operating permit. The point source sector includes large industrial operations that are relatively few in number but have large emissions, such as kraft mills, electrical generating units, and pharmaceutical factories. Nonpoint sources include emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The nonroad emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. The onroad emissions sector includes emissions from engines used primarily to propel equipment on highways and other roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The fire emissions sector includes emissions from agricultural burning, prescribed fires, wildfires, and other types of fires. Data are collected for each source at a facility and reported to VADEQ. EPA reviewed the emissions inventory submitted by VADEQ and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

B. Maintenance Demonstration

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentration (design value, or ''DV'') at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 ppm or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document as well as EPA's November 20, 2018 ''Resource Document for 1997 Ozone NAAQS Areas: Supporting Information for States Developing Maintenance Plans'' (2018 Resource Document),[12] EPA believes that if the most recent DV for the area is well below the NAAQS (*e.g.,* below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that prevention of significant deterioration requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

[11] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The NEI is released every three years based primarily upon data provided by State, Local, and Tribal air agencies for sources in their jurisdictions and supplemented by data developed by EPA.

[12] This resource document is included in the docket for this rulemaking available online at *www.regulations.gov,* Docket ID: EPA–R03–OAR–2022–0870 and is also available at *www.epa.gov/sites/production/files/2018-11/documents/ozone_1997_naaqs_lmp_resource_document_nov_20_2018.pdf.*

For the purposes of demonstrating continued maintenance with the 1997 ozone NAAQS, VADEQ provided 3-year DVs at monitors located in the Richmond-Petersburg Area from 2001 to 2020. This includes DVs at monitors for 2001–2003, 2002–2004, 2003–2005, 2004–2006, 2005–2007, 2006–2008, 2007–2009, 2008–2010, 2009–2011, 2010–2012, 2011–2013, 2012–2014, 2013–2015, 2014–2016, 2015–2017, 2016–2018, 2017–2019, and 2018–2020, which are shown in Table 2 in this document.[13] In addition, EPA has reviewed the most recent ambient air quality monitoring data for ozone in the Richmond-Petersburg Area, as submitted by Virginia and recorded in EPA's Air Quality System. The most recent DVs (*i.e.,* 2019–2021) at monitors located in the Richmond-Petersburg Area are as follows: Chesterfield County, 0.058 ppm; Henrico County 0.060 ppm; Hanover County, 0.058 ppm; Charles City, 0.058 ppm.[14]

[13] See also Figure 2 of VADEQ's September 21, 2021 submittal, included in the docket for this rulemaking available online at *www.regulations.gov,* Docket ID: EPA–R03–OAR–2022–0870.

[14] This data is also included in the docket for this rulemaking available online at *www.regulations.gov,* Docket ID: EPA–R03–OAR–2022–0870 and is also available at *www.epa.gov/air-trends/air-quality-design-values#report.*

TABLE 2—1997 OZONE NAAQS DESIGN VALUES IN PARTS PER MILLION FOR THE RICHMOND-PETERSBURG AREA

County	AQS Site ID	2001–2003	2002–2004	2003–2005	2004–2006	2005–2007	2006–2008	2007–2009	2008–2010	2009–2011	2010–2012	2011–2013	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020	2019–2021
Chesterfield	51–041–0004	.086	.082	.077	.076	.077	.078	.074	.075	.072	.075	.069	.066	.062	.062	.062	.06	.059	.057	.058
Henrico	51–087–0014	.09	.085	.08	.081	.085	.085	.078	.076	.074	.078	.073	.068	.063	.064	.065	.066	.065	.061	.06
Hanover	51–085–0003	.094	.09	.082	.081	.081	.08	.075	.075	.073	.076	.072	.068	.063	.062	.063	.064	.063	.06	.058
Charles City	51–036–0002	.091	.087	.079	.08	.082	.083	.077	.075	.075	.079	.073	.067	.062	.063	.061	.063	.062	.059	.058

Additionally, states can support the demonstration of continued maintenance by showing stable or improving air quality trends. According to EPA's 2018 Resource Document, several kinds of analyses can be performed by states wishing to make such a showing. One approach is to take the most recent DV at a monitor located in the area and add the maximum design value increase (over one or more consecutive years) that has been observed in the area over the past several years. For an area with multiple monitors, the highest of the most recent DVs should be used. A sum that does not exceed the level of the 1997 ozone NAAQS may be a good indicator of expected continued attainment. The largest increase in DVs at a monitor located in the Richmond-Petersburg Area was 0.004 ppm, which occurred between the 2004–2006 (0.081 ppm) and 2005–2007 (0.085 ppm) DVs at the Henrico monitoring site. Adding 0.004 ppm to the highest DV for the 2018–2020 period (0.061 ppm) results in 0.065 ppm, a sum that is still below the 1997 ozone NAAQS.

DVs at all monitors located in the Richmond-Petersburg Area have been below 85% of the 1997 ozone NAAQS (*i.e.,* 0.071 ppm or 71 ppb) since the 2012–2014 period. Additional supporting information that the area is expected to continue to maintain the standard can be found in projections of future year DVs that EPA recently completed to assist states with the development of interstate transport SIPs for the 2015 8-hour ozone NAAQS. Those projections, made for the year 2023, show that the highest DV at a monitor located in the Richmond-Petersburg Area is expected to be 0.062 ppm.[15] Therefore, EPA proposes to determine that future violations of the 1997 ozone NAAQS in the Richmond-Petersburg Area are unlikely.

C. Continued Air Quality Monitoring and Verification of Continued Attainment

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the September 21, 2021 submittal, VADEQ commits to continue to operate their air monitoring network in accordance with 40 CFR part 58. VADEQ also commits to track the attainment status of the Richmond-Petersburg Area for the 1997 ozone NAAQS through the review of air quality and emissions data during the second maintenance period. EPA has analyzed the commitments in VADEQ's submittal and is proposing to determine that they meet the requirements for continued air quality monitoring and verification of continued attainment.

D. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must require that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175(A)(d) of the CAA.

VADEQ's September 21, 2021 submittal includes the following contingency plan for the Richmond-Petersburg Area:

Virginia commits to implement all measures with respect to the control of NO_X and VOC contained in the SIP for the area before redesignation to attainment/maintenance. General conformity requirements and transportation conformity requirements will no longer apply once this maintenance plan expires on December 31, 2028.

Any ozone monitor in the area registering a fourth-highest, eight-hour average of 0.085 ppm or greater is considered to have recorded an exceedance of the 1997 ozone NAAQS. One control measure listed in Table 3 in this document will be implemented in the unlikely event that a monitor registers an exceedance.

Any ozone monitor in the area registering a three-year average of the fourth-highest, eight-hour ozone values of 0.085 ppm or greater is considered to have recorded a violation of the 1997 ozone NAAQS. Two additional control measures listed in Table 3 in this document will be implemented in the unlikely event that a monitor registers a violation.

Two additional control measures listed in Table 3 in this document will be implemented in the unlikely event that an ozone monitor registers a second violation following the implementation of the first contingency measures.

[15] See U.S. EPA, ''Air Quality Modeling Technical Support Document for the Updated 2023 Projected Ozone Design Values'', Office of Air Quality Planning and Standards, dated June 2018, available at *www.epa.gov/sites/default/files/2018–06/documents/aq_modelingtsd_updated_2023_modeling_o3_dvs.pdf.*

TABLE 3—CONTINGENCY MEASURES FOR THE RICHMOND-PETERSBURG MAINTENANCE AREA

Program	Description
Ozone Transport Commission (OTC) Architectural and Industrial (AIM) Coating Model Rule dated October 13, 2014 [16].	Rule provides additional requirements reducing emissions from the AIM source category.
OTC Model Rule for Consumer Products dated May 21, 2013 [17]	Rule provides additional requirements reducing emissions from the Consumer Product source category.
OTC Model Rule for Solvent Degreasing dated 2012 [18]	Rule provides additional requirements reducing emissions from the solvent degreasing category.
Article 51 of 9VAC5 Chapter 40, Emission Standards for Stationary Sources Subject to Case-by-Case RACT Determinations.	Application of NO_X Reasonably Available Control Technology (RACT) on facilities with a potential to emit at least 100 tpy NO_X.
Article 51 of 9VAC5 Chapter 40, Emission Standards for Stationary Sources Subject to Case-by-Case RACT Determinations.	Application of VOC RACT on facilities with a potential to emit at least 100 tpy VOC.

The following schedule applies to contingency measures should they need to be implemented due to exceedances or violations of the 1997 ozone NAAQS:

- Notification received from EPA that a contingency measure must be implemented or three months after a recorded exceedance or violation is certified.
- Applicable regulation to be adopted 6 months after this date.
- Applicable regulation to be implemented 6 months after adoption.
- Compliance with regulation to be achieved within 12 months of adoption.

EPA proposes to find that the contingency plan included in VADEQ's September 21, 2021 submittal satisfies the pertinent requirements of CAA section 175A(d). EPA also finds that the submittal acknowledges Virginia's continuing requirement to implement all pollution control measures that were contained in the SIP before redesignation of the Richmond-Petersburg Area to attainment.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).''

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs, and projects. Specifically, for such determination, RTPs, TIPs, and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 93.112) and satisfy transportation control measure implementation in the conformity rule provisions (40 CFR 93.113).

Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of transportation plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved, they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Richmond-Petersburg Area remains under the obligation to meet the applicable conformity requirements for the 1997 ozone NAAQS.

III. Proposed Action

EPA's review of VADEQ's September 21, 2021 submittal indicates that it meets all applicable CAA requirements, specifically the requirements of CAA section 175A. EPA is proposing to approve the second maintenance plan for the Richmond-Petersburg Area as a revision to the Virginia SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.11198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger

[16] *otcair.org/upload/Documents/Model%20Rules/AIM_Preamble_Model_Rule.pdf.*

[17] *otcair.org/upload/Documents/Model%20Rules/OTC%20CP%20Model%20Rule%20Final%20Clean%202013%20Revision%20Clean.pdf.*

[18] *otcair.org/upload/Documents/Model%20Rules/2011%20OTC%20Model%20Rule%20for%20Solvent%20Degreasing.pdf.*

to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

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

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

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule pertaining to Virginia's second maintenance plan for the Richmond-Petersburg Area 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.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2023–00091 Filed 1–11–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[EPA–R01–OAR–2022–0496; FRL–10522–01–R1]

Approval of the Clean Air Act, Authority for Hazardous Air Pollutants: Asbestos Management and Control; State of New Hampshire Department of Environmental Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the amended ''Env–Sw 2100: Management and Control of Asbestos Sites Not Operated after July 9, 1981,'' effective September 1, 2018 (''amended Asbestos Disposal Site Rule'') in place of the National Emission Standard for Asbestos (''Asbestos NESHAP'') provisions for inactive waste disposal sites not operated after July 9, 1981 submitted by the State of New Hampshire. The intended effect of this action is to propose approval of the amended Asbestos Disposal Site Rule in place of the Asbestos NESHAP provisions for inactive waste disposal sites not operated after July 9, 1981. This approval would make the New Hampshire Department of Environmental Services' (NH DES) amended Asbestos Disposal Site Rule federally enforceable. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before February 13, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2022–0496 at *https://www.regulations.gov,* or via email to *numrich.liam@epa.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*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information 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*. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Liam Numrich, Air Permits, Toxics, and Indoor Programs Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square-Suite 100, Boston, MA 02109–3912, tel: (617) 918–1307, email: *numrich.liam@epa.gov*.

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

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I. Background and Purpose

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable Federal rules, emissions standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E. *See* 58 FR 62262 (November 26, 1993), as amended by 65 FR 55810 (September 14, 2000). Under these regulations, a state air pollution control agency has the option to request EPA's approval to substitute a state rule for the applicable Federal rule (*e.g.,* the National Emission Standards for Hazardous Air Pollutants). Upon approval by EPA, the state agency is authorized to implement and enforce its rule in place of the Federal rule.

The Environmental Protection Agency (EPA) first promulgated standards to regulate asbestos emissions on April 6, 1973 (see 38 FR 8826). These standards have since been amended several times and re-codified in 40 CFR part 61, subpart M, ''National Emission Standard for Asbestos'' (Asbestos NESHAP). On June 28, 2002, NH DES submitted a partial rule substitution request to implement and enforce its regulation Env–Wm 3900 titled ''Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981'' (Asbestos Disposal Site Rule) in lieu of some sections of the Asbestos NESHAP as they apply to certain inactive waste disposal sites. On May 28, 2003, EPA approved the Asbestos Disposal Site Rule as a partial rule substitution for the provisions of the Asbestos NESHAP at 40 CFR 61.151, which apply to inactive waste disposal sites not operated after July 9, 1981. (*See* 68 FR 31611). On January 28, 2010, NH DES requested approval of its readopted and recodified rules pertaining to inactive waste disposal sites in New Hampshire. On January 11, 2013, EPA approved New Hampshire's readopted and re-codified rules in Env–Sw 2100 titled ''Management and Control of Asbestos Sites Not Operated After July 9, 1981,'' effective as of February 16, 2010. (*See* 78 FR 2333).

Under 40 CFR 63.91(e)(2), within 90 days of any amendment, repeal, or revision of any state rule approved as an alternative to a Federal requirement, the state must provide EPA with a copy of the revised authorities and request approval of the revised rule. NH DES enacted amendments to Env–Sw 2100 in 2018. The purpose of these amendments is to more effectively address large quantities of asbestos waste buried throughout Nashua and Hudson, NH on residential, commercial, and industrial properties. On December 29, 2021, NH DES requested EPA approval to implement its amended rules in Env–Sw 2100 as a partial substitute for 40 CFR 61.01 through 40 CFR 61.18 (subpart A, General Provisions) and 40 CFR 61.151 (subpart M provisions applicable to inactive asbestos disposal sites). NH DES now seeks to have the 2010 substituted rule formally replaced with the 2018 amended Asbestos Disposal Site rule. While we acknowledge receiving New Hampshire's submission of the revised rule after the 90-day deadline, pursuant to 40 CFR 63.91(e)(2)(iii), until such time as EPA approves or withdraws approval of a revised rule, the previously approved rule remains federally enforceable and the revision is not federally enforceable. Therefore, EPA believes that it is appropriate to act on the state's submission even though the state did not request approval of the revised rule within 90 days. As explained below, EPA has reviewed the State's submission and determined that the amended Asbestos Disposal Site Rule is no less stringent than the provisions of the Asbestos NESHAP. EPA is therefore proposing to approve NH DES's requests to implement and enforce its amended rules in Env–Sw 2100, ''Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981,'' effective September 1, 2018 (''amended Asbestos Disposal Site Rule'') as a partial rule substitution for the same provisions of 40 CFR 61.01 through 40 CFR 61.18 and 40 CFR 61.151 that were substituted by the predecessor rule Env–Wm 3900 on May 28, 2003 and amended in 2010.

II. What requirements must a State rule meet to substitute or adjust a section 112 rule?

A state must demonstrate that it has satisfied the general delegation/approval criteria contained in 40 CFR 63.91(d). The process of providing ''up-front approval'' assures that a state has met the delegation criteria in section 112(l)(5) of the CAA (as codified in 40 CFR 63.91(d)), that is, that the state has demonstrated that its NESHAP program contains adequate authorities to assure compliance with each applicable Federal requirement, adequate resources for implementation, and an expeditious compliance schedule. Under 40 CFR 63.91(d) (3), interim or final Title V program approval satisfies the criteria set forth in 40 CFR 63.91(d) for ''up-front approval.'' On September 24, 2001, EPA promulgated full approval of NH DES's operating permits program. *See*

66 FR 48806. Accordingly, NH DES has satisfied the up-front approval criteria of 40 CFR 63.91(d).

Additionally, the ''rule substitution'' option requires EPA to make a detailed and thorough evaluation of the state's submittal to ensure that it meets the stringency and other requirements of 40 CFR 63.93. A rule will be approved as a substitute if the state or local government demonstrates: (1) the state and local rules contain applicability criteria that are no less stringent than the corresponding Federal rule; (2) the state and local rule requires levels of control and compliance and enforcement measures that would achieve emission reductions from each affected source that are no less stringent than would result from the otherwise applicable Federal standard; (3) the schedule for implementation and compliance is consistent with the deadlines established in the otherwise applicable Federal rule; and (4) the state requirements include additional compliance and enforcement measures as specified in 40 CFR 63.93(b)(4). *See* 40 CFR 63.93(b).

A state may also seek, and EPA may approve, a partial delegation of the EPA's authorities. CAA 112(l)(1). To obtain a partial rule substitution, the state's submittal must meet the otherwise applicable requirements in 40 CFR 63.91 and 63.93, and be separable from the portions of the program that the state is not seeking rule substitution for. *See* 64 FR 1889.

III. How will EPA determine equivalency for State Alternative NESHAP Requirements?

Before we can approve alternative requirements in place of a part 61 or part 63 emissions standard, the state must submit to us detailed information that demonstrates how the alternative requirements compare with the otherwise applicable Federal standard. Under 40 CFR part 63, subpart E, the level of control in the state rule must be at least as stringent as the level of control in the Federal rule. In addition, in order for equivalency to be granted for a rule substitution, the level of control and compliance and enforcement measures (monitoring, reporting and recordkeeping (''MRR'')) of the state rule, taken together as a whole, must be equivalent to the level of control and MRR of the Federal rule, taken together as a whole. A detailed discussion of how EPA will determine equivalency under the rule substitution option for state alternative NESHAP requirements is provided in the preamble to EPA's proposed Subpart E amendments on January 12, 1999. *See* 64 FR 1908.

IV. Why did NH DES previously seek a partial rule substitution?

In its initial request for a partial rule substitution on June 28, 2002, NH DES stated that virtually all known inactive waste disposal sites not operated after July 9, 1981, are concentrated in two neighboring communities, Nashua and Hudson. Due to dumping practices by a former asbestos manufacturing plant, over 250 sites are known to exist in these two areas on properties that are actively in use for residential, commercial, industrial, recreational and public purposes. The asbestos manufacturing plant operated in Nashua disposed of its asbestos containing waste by delivering it to the property owners for use as fill (*i.e.,* in low-lying areas) until the late 1970's. The material exists in and around schoolyards, roadways, parking lots, and shopping centers as well as within wooded areas, along riverbanks, and within conservation areas. In its initial request, NH DES also stated that the requirements of 40 CFR 61.151, the portion of the Asbestos NESHAP that applies to inactive waste disposal sites, were established with traditional industrial/commercial dumpsites in mind, rather than dumpsites spread throughout a developed and active community setting. Consequently, certain aspects of § 61.151 are not well suited for inactive waste disposal sites not operated after July 9, 1981, in New Hampshire.

For example, in its initial request, NH DES stated that § 61.151 of the Asbestos NESHAP requires unfenced/non-posted sites to be covered with a minimum of six inches of soil if vegetated, or a minimum of 24 inches of soil if not vegetated. If the site is not fenced and posted, other viable capping materials can be used but only with EPA approval pursuant to 40 CFR 61.151(c). This means that neither asphalt nor concrete can be used as a surface treatment without EPA approval. In these communities, asbestos waste is currently buried beneath parking lots, driveways, and sidewalks. NH DES substituted performance-based specifications for the ''one-size-fits-all'' cover specifications in 40 CFR 61.151.

As another example, 40 CFR 61.151(d) requires the owner/operator of an inactive waste disposal site to supply notice at least 45 days in advance of excavating or disturbing any asbestos-containing waste at the site. In its initial request, NH DES explained that due to the built-up nature of these inactive waste disposal sites, the need to disturb asbestos on short notice is a common occurrence and needs to be addressed. For instance, asbestos waste often must be disturbed to replace broken water lines as well as to repair or replace cover materials exposed due to storm water runoff. NH DES's substituted rules reduce the length of the notice period but also require all persons who disturb asbestos waste to be qualified and to employ specific safe work practices and engineering controls.

In its initial request, NH DES also noted that the general provisions of 40 CFR part 61, subpart A generally apply to new stationary sources that are not yet constructed or to existing stationary sources that are actively operating. Inactive waste disposal sites are already constructed and are no longer operating or allowed to emit pollutants. Therefore, NH DES's rule includes general requirements that are more relevant to inactive waste disposal sites. For example, the alternative rules address site monitoring, maintenance, and reporting requirements in a manner appropriate to closed nonoperating sources that by their nature cannot be constructed or modified to increase their emissions.

V. What changes did NH make to its asbestos disposal site rule?

Effective as of September 1, 2018, NH DES amended its rules in Env–Sw 2100, ''Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981.'' The following provides an overview of the changes NH DES made to its amended Asbestos Disposal Site Rule. Detailed side-by-side comparison tables of NH DES's amended Asbestos Disposal Site Rule compared to the Asbestos NESHAP and the General Provisions are included in the docket identified in the **ADDRESSES** section of this **Federal Register**. *See* Table 1 and Table 2 of NH DES's December 29, 2021, submission.

In section Env–Sw 2102 of the amended Asbestos Disposal Site Rule, definitions were added and amended to more clearly explain the roles and responsibilities including Certified Asbestos Disposal Site (ADS) Workers, Contractors, Qualified ADS Contractors, and Qualified Individuals. The definition of ''Utility Project'' was expanded to include projects that occur in roadways and railroad right of ways, so that those projects involving multiple property owners can be handled similarly to utility projects that also often involve multiple property owners. In addition, NH DES moved the definitions of Asbestos, Asbestos Disposal Site, and Contractor to

Appendix C: Statutory Definitions of Env–Sw 2100.

In Env–Sw 2103, Waivers, application criteria were updated and clarified regarding who can apply for a waiver, signature requirements, criteria for granting and denying waiver requests, and decision-making procedures and requirements. Language in Env–Sw 2103.05(e) was added to provide that NH DES may grant a waiver only after the requestor obtains approval from EPA for the alternative control method pursuant to 40 CFR 60.151(c).

In Env–Sw 2104, General Site Management Requirements, multiple requirements for capping systems and owner responsibilities were clarified. This includes design and maintenance requirements for capping systems, how the requirements of these rules relate to other local, state, and federal requirements, owner responsibility to protect capping systems and assure asbestos is not disturbed except in controlled situations, and owner responsibility to keep and disclose clearance determination records produced by qualified individuals when projects are completed.

In Env–Sw 2105, Work Practices and Engineering Controls, it was clarified that the rules in this part apply to all projects involving the disturbance of asbestos, even those that do not require the work to be done by licensed/certified persons. New and amended terms were incorporated from the definitions section to clarify rule implementation including, for example, that work plans must be prepared and signed by qualified individuals, that clearance determinations must be performed and signed by certified qualified individuals, that air monitoring results can be summarized in the project completion report, and that lab data is allowed to be placed in the owner records versus submitted to NH DES. The amendments also clarified signature requirements for project completion reports and clearance determinations, project notice requirements, as well as roles and responsibilities for notification, reporting, and clearance determinations. In addition, hyperlinks were added to provide information on documents that were incorporated by reference into the rule.

In Env–Sw 2106, Work Plans for Major Non-Emergency Projects, rule implementation was clarified by incorporating new and amended terms from the definitions section. In addition, the requirements for and the process of submitting work plans for approval were clarified, and the process for updating approved generic work plans was clarified.

In Env–Sw 2107, Suspension and Revocation, the amendments clarified and expanded the good cause provision for suspension or revocation of any approval issued pursuant to Chapter Env–Sw 2100.

After reviewing NH DES's amended Asbestos Disposal Site Rule and equivalency demonstrations for the Asbestos NESHAP inactive waste disposal site provisions, as the rules apply to sources in New Hampshire for inactive waste disposal sites not operated after July 9, 1981, EPA has determined that the amended Asbestos Disposal Site Rule is no less stringent than the provisions of the Asbestos NESHAP and these requests meet all the requirements necessary for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93.

VI. Proposed Action

EPA is proposing to grant NH DES the authority to implement the revised Env–Sw 2100, ''Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981,'' effective September 1, 2018, in place of the Asbestos NESHAP provisions for inactive waste disposal sites not operated after July 9, 1981. Upon approval the rule will be federally enforceable. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

VII. Incorporation by Reference

In this proposed rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference New Hampshire Regulations at Env–Sw 2100: ''Management and Control of Asbestos Disposal Sites Not Operated after July 9, 1981,'' effective September 1, 2018, as described in section VI of this proposed rule. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator has the authority to approve section 112(l) submissions that comply with the provisions of the Act and applicable Federal regulations. In reviewing section 112(l) submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, the 112(l) submission 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

40 CFR Part 61

Environmental protection, Air pollution control, Administrative practice and procedure, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Incorporation by reference, Intergovernmental relations, Mercury, Radioactive materials, Radon, Reporting and recordkeeping requirements, Uranium, Vinyl chloride.

40 CFR Part 63

Environmental protection, Air pollution control, Administrative practice and procedure, Business and industry, Carbon oxides, Hazardous substances, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 3, 2023.

David Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2023–00112 Filed 1–11–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XC621]

Pacific Fishery Management Council; Public Meetings and Hearings

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

ACTION: Notice of opportunities to provide public comments.

SUMMARY: The Pacific Fishery Management Council (Council) has begun its annual preseason process to develop regulations to manage the 2023 ocean salmon fisheries off the U.S. West Coast. This document informs the public of opportunities to provide oral and written comments on the development of 2023 ocean salmon regulations.

DATES: Comments on the salmon management alternatives that will be adopted by the Council at its March 2023 meeting and will be described in its Preseason Report II, received orally, electronically, or in hard copy by 5 p.m. Pacific Time, March 31, 2023, will be considered in the Council's final recommendation for the 2023 management measures.

ADDRESSES: Documents will be available from the Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384, and will be posted on the Council's website at *https://www.pcouncil.org.* You may submit written comments by any one of the following methods:

- *Council e-Portal:* Written comments must be submitted electronically to Mr. Marc Gorelnik, Chair, Pacific Fishery Management Council, via the Council's e-Portal by visiting *https://pfmc.psmfc.org.*
- *Federal e-Rulemaking Portal:* Electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2023–0001 in the Search box. Click on the ''Comment'' tab, complete the required fields, and enter or attach your comments. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS and the Council will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ms. Robin Ehlke, Pacific Fishery Management Council, telephone: 503–820–2280; *email: robin.ehlke@noaa.gov.* For information on submitting comments via the Federal e-Rulemaking portal, contact Shannon Penna, NMFS West Coast Region, telephone: 562–980–4239; email: s*hannon.penna@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Council has announced the schedule of reports, public meetings, and hearings for the 2023 ocean salmon fisheries on its website (*https://www.pcouncil.org*) and in the **Federal Register** (87 FR 76027, December 12, 2022). The Council will adopt alternatives for the management cycle that begins on May 16, 2023 and continues through May 15, 2024, at its March 4–10, 2023, meeting which is scheduled to occur in person, in Seattle, Washington. Details of this meeting are available on the Council's website (*https://www.pcouncil.org*). On March 20, 2023, ''Preseason Report II—Proposed Alternatives and Environmental Assessment Part 2 for 2023 Ocean Salmon Fishery Regulations'' is scheduled to be posted on the Council's website at *https://www.pcouncil.org.* The report will include a description of the salmon management alternatives and a summary of their biological and economic impacts.

Public hearings will be held to receive oral comments on the proposed ocean salmon fishery management alternatives adopted by the Council. All public hearings begin at 7 p.m. Public hearings focusing on Washington and Oregon salmon fisheries will occur simultaneously on March 20, 2023, and the public hearing for California salmon fisheries will occur on March 21, 2023. A summary of oral comments heard at the hearings will be provided to the Council at its April meeting. These public hearings are tentatively scheduled to occur in person, in the cities of Westport, Washington; Coos Bay, Oregon; and Santa Rosa, California. Actual hearing venues or instructions for joining online hearings will be posted on the Council's website (*https://www.pcouncil.org*) in advance of the hearing dates.

Comments on the alternatives the Council adopts at its March 2023 meeting, and described in its Preseason Report II, may be submitted in writing or electronically as described under **ADDRESSES**, orally (in-person) at a public hearing, orally (online or in-person) or in writing at the Council meeting held on March 4–10, 2023, or orally (online or in-person) at the Council meeting, April 1–7, 2023, which is scheduled to occur in person, in Foster City, California. Details of these meetings will be available on the Council's website (*https://www.pcouncil.org*) and will be published in the **Federal Register**. Written and electronically submitted comments must be received prior to the April 2023 Council meeting, in order to be included in the briefing book for the Council's April meeting, where they will be considered in the adoption of the Council's final recommendation for the 2023 salmon fishery regulations. All comments received accordingly will be reviewed and considered by the Pacific Council and NMFS.

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

Dated: January 5, 2023.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–00323 Filed 1–11–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

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Thursday, January 12, 2023

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Analysis of Service Contract Inventory for FY 2020 and the Planned Analysis of the FY 2021 Inventory; Notice of Availability

AGENCY: United States Agency for International Development (USAID).

ACTION: Notice of public availability.

SUMMARY: Acting in compliance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, requiring civilian agencies to prepare and analyze inventories of their service contracts, the United States Agency for International Development (USAID) is publishing this notice to advise the public of the availability of the FY 2021 Service Contract Inventory found at *https://www.acquisition.gov/content/service-contract-inventory,* and the posting of the Analysis of Service Contract Inventory for FY 2020 and the Planned Analysis of the FY 2021 Inventory found at: *https://www.usaid.gov/results-and-data/budget-spending/official-service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Eileen Simoes, Chief, Policy Division, Bureau for Management Policy, Budget and Performance, U.S. Agency for International Development, (202) 921–5090, *esimoes@usaid.gov*.

Susan C. Radford,

Management and Program Analyst, Bureau for Management Policy, Budget and Performance, U.S. Agency for International Development.

[FR Doc. 2023–00440 Filed 1–11–23; 8:45 a.m.]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Request for Applications; National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board, Citrus Disease Subcommittee (CDS), National Genetic Resources Advisory Council (NGRAC), Specialty Crop Committee (SCC), and Pollinator Subcommittee (PS)

AGENCY: Research, Education, and Economics (REE), United States Department of Agriculture (USDA).

ACTION: Solicit applications for memberships for the NAREEE Advisory Board, Citrus Disease Subcommittee, National Genetic Resource Advisory Council, Specialty Crop Committee, and Pollinator Subcommittee.

SUMMARY: In accordance to the Federal Advisory Committee Act (FACA), as amended, the Research, Education, and Economics (REE), United States Department of Agriculture (USDA) announces the opening of the solicitation for applications to fill vacancies on the National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board and its committees and subcommittees for Fiscal Year 2024 and any vacancies that may occur in this current fiscal year (FY23)—from the date of this notice to September 30, 2023: Citrus Disease Subcommittee (CDS), National Genetic Resources Advisory Council (NGRAC), Specialty Crop Committee (SCC), and Pollinator Subcommittee (PS).

DATES: Visit the NAREEE Advisory Board website: *https://nareeeab.ree.usda.gov/* to review a complete list of the Board and committee and subcommittee membership categories. If you wish to be considered for the expiring seats listed in A–D under the **SUPPLEMENTARY INFORMATION**, applications should be submitted by close of business Eastern Standard Time on Wednesday, May 31, 2023.

Applications for all Board and Committee/Subcommittee membership seats will be received continuously until Friday, December 29, 2023.

Applicant Selection

Applicants will be selected by the Secretary of Agriculture based on how well they meet the required qualifications and the current needs of the Board and its committees/subcommittees. It is anticipated that the members will start serving on the Advisory Board and/or committees/subcommittee beginning of October 2023.

FOR FURTHER INFORMATION CONTACT: Kate Lewis, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, 1400 Independence Avenue SW, Room 6019 South Building, Washington, DC 20250–2255; email: *nareee@usda.gov.* NAREEE Advisory Board website: *https://nareeeab.ree.usda.gov/.*

SUPPLEMENTARY INFORMATION: All board members will receive reimbursement for per diem and travel expenses incurred for attending meetings and/or conducting other business on behalf of the Board/Subcommittee authorized by 5 U.S.C. 5703 of the Federal Travel Regulation for persons employed intermittently in government service.

Individuals may not serve on more than one USDA Federal Advisory Committee. Individuals who are federally registered lobbyists, appointed to committees to exercise their own individual best judgment on behalf of the government (*e.g.,* as Special Government Employees), are ineligible to serve.

All applicants will be carefully reviewed for their relevant experience, expertise, and leadership. Appointed members will serve one-, two-, or three-year terms in order to properly stagger term rotation. All applicants will be vetted before selection. Appointments to the NAREEE Advisory Board and its committees and subcommittees will be made by the Secretary of Agriculture.

Instructions for Nominations/Applications

Application instructions can be found on the NAREEE Advisory Board website: *https://nareeeab.ree.usda.gov/applications.*

The USDA prohibits discrimination in all of its programs and activities on the basis of ''race, color, national origin, religion, sex, (including gender identity and sexual orientation), disability, age, marital status, familial or parental status, income derived from a public assistance program, political beliefs, genetic information, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the committee. To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Dated: January 4, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–00461 Filed 1–11–23; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 13, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Modernization of Swine Slaughter Inspection.

OMB Control Number: 0583–0171.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*). This statute mandates that FSIS protect the public by verifying that meat products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS amended the Federal meat inspection regulations to establish a new inspection system for market hog slaughter establishments that has been demonstrated to provide equivalent or greater public health protection than the existing inspection system. The Agency also made several changes to the regulations that would affect all establishments that slaughter any swine, regardless of the inspection system under which they operate or the age, size, or class of swine.

Need and Use of the Information: FSIS will collect information to ensure that all establishments operating under the New Swine Slaughter Inspection System (NSIS) monitor their systems through microbial testing and recordkeeping. Establishments operating under NSIS are required to (1) identify animals or carcasses that establishment personnel have sorted and removed for disposal before FSIS inspection with a unique tag, tattoo, or similar device, (2) maintain records to document the total number of animals and carcasses sorted and removed per day and the reasons for their removal, and (3) maintain records documenting that products resulting from their slaughter operations meet the new definition of RTC pork product.

Furthermore, FSIS will collection information to ensure that each establishment operating under the NSIS submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers.

Description of Respondents: Business or other for-profit.

Number of Respondents: 84.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 4,348.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–00494 Filed 1–11–23; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 13, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Handling Swine with Potential Vesicular Disease.

OMB Control Number: 0579–New.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. The AHPA is contained in Title X, subtitle E, sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002 [7 U.S.C. 8301 *et seq.*]

Need and Use of the Information: Information collection activities associated with reporting and rapid detection include notifiable swine disease reporting, National Animal Health Reporting System, monthly State and Area Veterinarian In Charge reports, and FAD data collection and investigations. Data collected for emerging disease investigations and outbreaks may require more information depending on the situation. APHIS will use diagnostic testing results, number of detections, and epidemiological information to detect and evaluate the status of a potential emerging disease threat. Once APHIS confirms there is an emerging animal disease, it will use this information to create specific case definitions and disease reporting criteria.

If the information was collected less frequently or not collected at all, it would significantly cripple APHIS' ability to evaluate the risk of spreading swine vesicular disease in the United States. This would have serious effects on the U.S. livestock industry and international trade.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government; Individuals or households.

Number of Respondents: 75.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 6,900.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–00483 Filed 1–11–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket #RUS–22–Electric–0060]

Inflation Reduction Act Discussion Sessions

AGENCY: Rural Utilities Service, USDA

ACTION: Notice of roundtable discussion sessions.

SUMMARY: The Inflation Reduction Act (IRA) of 2022 created several new clean energy provisions to be administered by the Rural Utilities Service (RUS), an agency of the Rural Development (RD) mission area of the United States Department of Agriculture (USDA). Following formal listening sessions, Tribal consultation, and a written comment period in November and December of 2022 regarding these IRA RUS clean energy provisions, RUS will host a series of virtual roundtables in January of 2023 to gain additional individual input from stakeholders regarding the design of IRA sections 22001 and 22004, with the intention of releasing a funding opportunity announcement in the first half of 2023.

DATES: Thirteen virtual roundtable discussions are planned for the following dates and times. In an effort to create a smaller setting for individual representatives to share their input, roundtables are organized by stakeholder groups, although all discussions will be open to any member of the public who expresses interest in joining, with the goal of being inclusive and hearing from all stakeholders wishing to provide further input. Registration links for the sessions below are available at: *https://www.rd.usda.gov/inflation-reduction-act.*

January 17—10 a.m. Eastern Time (ET)—USDA Rural Development, RUS IRA Roundtable aimed at Electrical Generation & Transmission (G&T) entities RUS Region 1 which includes entities in the following states: AL, CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV

January 17—4 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Rural Mayors and Other Sub-national Leaders

January 18—10 a.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Labor Stakeholders

January 18—3 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Environmental Stakeholders

January 19—3 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Clean Energy Developers

January 20—11 a.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Distribution Cooperatives in RUS Region 1 which includes entities in the following states: AL, CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV

January 20—3:30 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Electrical G&T entities in RUS Region 2 which includes entities in the following states: AK, AR, HI, IL, IN, IA, KS, LA, MI, MS, MO, NE, OK, TX

January 23—11 a.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Engineering Firms with Expertise in Rural Energy and Rural Energy Systems

January 23—3 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Electrical G&T entities in RUS Region 3 which includes entities in the following states: AZ, CA, CO, ID, MN, MT, NV, NM, ND, OR, SD, UT, WA, WI, WY and all Territories

January 24—11 a.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Distribution Cooperatives in RUS Region 2 which includes entities in the following states: AK, AR, HI, IL, IN, IA, KS, LA, MI, MS, MO, NE, OK, TX

January 24—3 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at promoting renewable energy development in tribal communities through Tribes, Tribal Utilities and Tribal Organizations and Entities

January 25—1 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Equity Stakeholders

January 26—4 p.m. ET—USDA Rural Development, RUS IRA Roundtable aimed at Distribution Cooperatives in RUS Region 3 which includes entities in the following states: AZ, CA, CO, ID, MN, MT, NV, NM, ND, OR, SD, UT, WA, WI, WY and all Territories

ADDRESSES: If you have an interest in attending any roundtable discussion session, please register at *https://www.rd.usda.gov/inflation-reduction-act.* Given limited capacity and the goal of creating smaller settings to hear from as diverse and broad a set of stakeholders as possible, we encourage stakeholders to only register for the session most focused on their interest. Additional information about RD and its programs is available on the internet at *https://www.rd.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Louise Torrez at *Louise.Torres@usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print,

audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

Rural Development is an advocate for rural America, administering a multitude of programs, ranging from housing and community facilities to infrastructure and business development. The Agency's mission is to increase economic opportunity and improve the quality of life in rural communities by providing the leadership, infrastructure, capital, and technical support that enables rural communities to prosper. To achieve its mission, the Agency provides financial support, including loan guarantees, direct loans and grants, and technical assistance to enhance the quality of life and provide the foundation for economic development in rural areas.

The RUS received significant funding through the IRA of 2022, Public Law 117–169. This funding is a historic opportunity to provide financial assistance for renewable and zero-emission projects and energy systems, including energy storage and enabling infrastructure, that will support the long-term resilience, reliability, and affordability of rural electric systems and achieve greenhouse gas emission reductions.

Section 22001 of the IRA provides $1 billion in budget authority for loans for solar, hydro, wind, geothermal and biomass projects, as required by Section 317 of the Rural Electrification Act (7 U.S.C. 940g), and for energy storage associated with renewable energy projects. Up to 50 percent of such loans will be forgiven if the loan terms and conditions are satisfied; however, the Secretary shall also establish criteria to go beyond the 50 percent limitation.

Section 22004 of the IRA provides $9.7 billion in budget authority for loans, grants, loan modifications and other financial assistance to support the purchase of renewable energy, renewable energy systems, zero-emissions, and carbon capture systems and to deploy such systems or to make energy efficiency improvements to generation and transmission systems of eligible entities to achieve the greatest reduction in carbon dioxide, methane, and nitrous oxide emissions associated with rural electric systems. An eligible entity is defined as an electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986 and is or has been a Rural Utilities Service electric loan borrower pursuant to the Rural Electrification Act of 1936 or serving a predominantly rural area or a wholly or jointly owned subsidiary of such electric cooperative.

RUS aims to release a Funding Opportunity Announcement for both sections 22001 and 22004 in the first half of 2023. The RUS is developing processes and tools that will be used to deliver this important funding to rural areas and stakeholder feedback is vital in developing financial assistance products that will be integral to ensuring this funding reaches the intended customers.

Roundtable Discussion Sessions

The RUS will hold the roundtable discussions on the dates listed in **DATES** section of this notice to provide an additional opportunity for the public, particularly those who may not have participated in or commented through previously announced opportunities, about their needs and interests regarding sections 22001 and 22004 of the IRA. RUS will use the Zoom platform to host and record the virtual roundtable discussions. Each roundtable session will begin with brief opening remarks from RUS leadership. Participants will be able to provide input verbally or through the chat feature in Zoom. Individual speakers providing input will be asked for succinct remarks. Due to time and attendance constraints, the agency reserves the right to announce a time limitation at the beginning of each session.

The discussions will vary and be driven in large part by participants, but will focus on IRA sections 22001 and 22004 and input regarding, but not limited to, topics such as community needs, concerns, and opportunities regarding renewable energy development; specific financing and market needs to make renewable energy and zero emission projects and energy systems viable, affordable and reliable for rural communities; equity concerns and specific thoughts on how to include and address equity considerations; and metrics and the benefits and/or limitations of existing publicly available government tools to assess the greenhouse gas emissions of renewable energy projects and energy systems.

Andrew Berke,

Administrator, Rural Utilities Service.

[FR Doc. 2023–00597 Filed 1–10–23; 4:15 pm]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Ohio Advisory Committee (Committee) will hold a virtual meeting on Friday, January 20, 2023, at 11:30 a.m. Eastern Time. The purpose of the meeting is to identify and discuss potential panelists for a series of briefings on the source of income discrimination in housing in Ohio.

DATES: The meeting will take place on Friday, January 20, 2023, from 11:30 a.m.–1:00 p.m. ET.

Registration Link: https://tinyurl.com/579mf3uf.

Join by Phone: (833) 435–1820 USA Toll Free; Meeting ID: 160 480 3001.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference registration link or telephone number listed 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 *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 *mwojnaroski@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, Ohio 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. Updates & Announcements
III. Discussion: Briefing Planning
IV. Next Steps
V. Public Comments
VI. Adjournment

Dated: January 6, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–00423 Filed 1–11–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 92–16A001]

Export Trade Certificate of Review

ACTION: Notice of application for an amended Export Trade Certificate of Review by Aerospace Industries Association of America, Inc. (AIA), Application No. 92–16A001.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (OTEA) of the International Trade Administration, received an application for an amended Export Trade Certificate of Review (Certificate). This notice summarizes the proposed application and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (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. 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(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 five (5) copies, plus two (2) copies of the nonconfidential version, 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 92–16A001.''

A summary of the application follows.

Summary of the Application

Applicant: AIA, 1000 Wilson Boulevard, Suite 1700, Arlington, VA 22209.

Contact: Matthew F. Hall, General Counsel, Dunaway & Cross, P.C.

Application No.: 92–16A001.

Date Deemed Submitted: December 28, 2022.

Proposed Amendment: AIA seeks to amend its Certificate as follows:

1. Add the following companies as new Members of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

- Acorn Growth Companies, LLC; Oklahoma City, OK
- AeroMed Group; Charlotte, NC
- Alvarez & Marsal Holdings, LLC; New York, NY
- Ansys, Inc.; Canonsburg, PA
- Astroscale U.S., Inc.; Denver, CO (controlling entity Astroscale Holdings Inc; Tokyo, Japan)
- AT Kearney Public Sector and Defense Services; Arlington, VA (controlling entity AT Kearney; Chicago, IL)
- ATI Defense; Pittsburgh, PA (controlling entity Allegheny Technologies Incorporated; Pittsburgh, PA)
- Aura Network Systems, Inc.; McLean, VA
- Aviation Management Associates, Inc.; Washington, DC
- Beta Technologies; South Burlington, VT
- Cadence Design Systems, Inc.; San Jose, CA (controlling entity Cadence Design Systems; Dublin, Ireland)
- Capewell Aerial Systems; South Windsor, CT
- COMSPOC Corporation; Exton, PA
- Electra.aero; Manassas, VA
- ENSCO, Inc.; Springfield, VA
- Exosonic, Inc.; Los Angeles, CA
- Ferra Aerospace, Inc.; Grove, OK (controlling entity Ferra Group; Brisbane, Australia)
- Infosys; Richardson, TX (controlling entity Infosys Limited; Bangalore, India)
- Interos, Inc.; Arlington, VA (controlling entity Enteros EMEA Ltd.; Main, Germany)
- Joby Aviation, Inc.; Santa Cruz, CA
- Metis Flight Research Associates; Albuquerque, NM
- Microsoft Azure; Redmond, WA (controlling entity Microsoft Corporation; Redmond, WA)
- MTI Motion; Prairie View, WI (controlling entity Steel Partners Holding, L.P.; New York, NY)
- Nimbis Services, Inc.; Oro Valley, AZ
- Oliver Wyman Inc.; New York, NY
- Pacific Forge Incorporated; Fontana, CA (controlling entity Avis Industrial Corporation; Upland, IN)
- Perryman Company; Houston, PA
- Reaction Engines, Inc.; Denver, CO (controlling entity Reaction Engines Ltd.; Abingdon, U.K.)
- Relativity Space, Inc.; Long Beach, CA
- Reliable Robotics Corporation; Mountain View, CA
- SB Technology, Inc.; San Francisco, CA (controlling entity SandboxAQ; Palo Alto, CA)
- SI2 Technologies; North Billerica, MA (controlling entity Antenna Research Associates, Inc.; Laurel, MD)
- SkyThread Corporation; Irvine, CA
- Solvay; Alpharetta, GA (controlling entity Solvay SA; Brussels, Belgium)
- Spartronics LLC; Williamsport, PA
- Spright; Gilbert, AZ (controlling entity Air Methods Corporation; Greenwood Village, CO)

- Sunbelt Design and Development Inc; San Antonio, TX
- Supernal LLC; Washington, DC (controlling entity Hyundai Motor Group; Seoul, South Korea)
- Synergetic Technologies Group, Inc.; La Verne, CA
- SysArc Inc.; Rockville, MD
- Tata Consultancy Services; Edison, NJ (controlling entity Tata Consultancy Services Limited; Mumbai, India)
- Umbra Lab, Inc.; Santa Barbara, CA
- VIASAT, INC.; Carlsbad, CA
- Virgin Orbit Holdings, Inc.; Long Beach, CA
- Wisk Aero LLC; Mountain View, CA
- World View Enterprises, Inc.; Tucson, AZ

2. Remove the following companies as Members of AIA's Certificate:

- Aerion Corporation
- Aero Metals Alliance
- AGC Aerospace & Defense
- Air-Liquide USA LLC
- Alta Devices, Inc.
- Analytical Graphics, Inc.
- Arch Tuscaloosa
- B&E Group, LLC
- Benchmark Electronics, Inc.
- Bombardier
- Cubic Corporation, Inc.
- Cytec Engineered Materials, Inc.
- Delta Flight Products
- Denison Industries, Inc.
- Dupont Company
- Esterline Technologies
- FS Precision Tech, Co. LLC
- Gamma Aerospace LLC
- Garmin International, Inc.
- Global Partner Solutions, LLC
- Hellen Systems LLC
- Limco Air Repair, Inc.
- Lockheed Martin Corporation
- Lord Corporation
- Mantech International Corporation
- Meggitt-USA, Inc.
- Momentum Aviation Group
- MOOG Inc.
- MTorres Americas
- NEO Tech
- Parker Aerospace
- PrecisionHawk
- Primus Aerospace
- Primus Technologies Corporation
- Range Generation Next LLC
- Rix Industries
- Sparton Corporation
- TT Electronics
- United Technologies Corporation
- Vantage Associates

3. Change in names or addresses for the following Members:

- Advanced Logistics for Aerospace, LLC is now located in Bethpage, NY
- AeroVironment, Inc. is now located in Arlington, VA
- American Pacific Corporation is now located in Cedar City, UT
- Arconic Inc. of New York, NY is now Howmet Aerospace Inc. in Pittsburgh, PA
- Astronautics Corporation of America is now located in Oak Hill, WI
- BAE Systems, Inc. is now located in Falls Church, VA
- Cobham in Arlington, VA changed its name to Cobham Advanced Electronic Solutions (CAES)
- Ducommun, Incorporated of Carson, CA is now located in Santa Ana, CA
- DXC Technology Company of Tysons Corner, VA is now located in Ashburn, VA
- General Dynamics Corporation of Falls Church, VA is now located in Reston, VA
- Integral Aerospace, LLC of Santa Ana, CA is now PCX Aerosystems at the same location
- Kaman Aerospace Corporation of Bloomfield, CT is now Kaman Corporation at the same location
- Kratos Defense & Security Solutions, Inc. of San Diego, CA is now located in Round Rock, TX
- Meggitt-USA, Inc. of Simi, CA and Parker Aerospace of Irvine, CA now are Parker Meggitt USA Inc., located in Simi Valley, CA
- Microsemi Corporation of Aliso Viejo, CA is now Microchip Technology Incorporated in Chandler, AZ
- Northrop Grumman Corporation of Los Angeles, CA is now located in Falls Church, VA
- Pacific Design Technologies, Inc. of Goleta, CA is now AMETEK Pacific Design Technologies, Inc. in the same location
- PTC Inc. of Needham, MA is now located in Boston, MA
- Raytheon Company of Waltham, MA is now Raytheon Technologies Corporation located in Arlington, VA
- salesforce.com, inc. of San Francisco, CA is now Salesforce, Inc. at the same location
- Siemens PLM Software of Plano, TX is now Siemens Government Technologies, Inc. in Reston, VA
- Sierra Nevada Corporation, Space Systems of Littleton, CO is now Sierra Space Corporation located in Broomfield, CO
- Stratolaunch Systems Corporation of Seattle, WA is now Stratolaunch LLC in Mojave, CA
- SupplyOn North America Inc. of San Diego, CA is now located in Greer, SC
- Tech Manufacturing, LLC of Wright, MO is now ADDMAN Tech Production Center in the same location
- TriMas Aerospace of Los Angeles, CA is now located in Irvine, CA
- Triumph Group, Inc. of Wayne, PA is now located in Berwyn, PA
- Unitech Aerospace of Hayden, ID is now Unitech Composites Inc. at the same location

AIA's proposed amendment of its Export Trade Certificate of Review would result in the following membership list:

- 3M Company; St. Paul, MN
- AAR Corp.; Wood Dale, IL
- Accenture; Chicago, IL
- Acorn Growth Companies, LLC; Oklahoma City, OK
- Acutec Precision Aerospace, Inc.; Meadville, PA
- ACUTRONIC USA, Inc.; Pittsburgh, PA
- ADI American Distributors LLC; Randolph, NJ
- ADDMAN Tech Production Center; Wright, MO
- Advanced Logistics for Aerospace (ALA); Bethpage, NY
- Aernnova Aerospace; Ann Arbor, MI
- Aerojet Rocketdyne; Rancho Cordova, CA
- AeroMed Group; Charlotte, NC
- Aero-Mark, LLC; Ontario, CA
- AeroVironment, Inc.; Arlington, VA
- Aireon LLC; McLean, VA
- AlixPartners, LLP; New York, NY
- Allied Telesis, Inc.; Bothell, WA
- Alvarez & Marsal Holdings, LLC; New York, NY
- Amazon.com Inc.; Seattle, WA
- American Pacific Corporation; Cedar City, UT
- AMETEK Pacific Design Technologies, Inc.; Goleta, CA
- Ansys, Inc.; Canonsburg, PA
- Apex International Management Company; Daytona Beach, FL
- Applied Composites; Lake Forest, CA
- Astronautics Corporation of America; Oak Hill, WI
- Astronics Corporation, East Aurora, NY
- Astroscale U.S. Inc.; Denver, CO
- AT Kearney Public Sector and Defense Services; Arlington, VA
- Athena Manufacturing, LP; Austin, TX
- ATI Defense; Pittsburgh, PA
- Aura Network Systems, Inc.; McLean, VA
- AUSCO, Inc.; Port Washington, NY
- Avascent; Washington, DC
- Aviation Management Associates, Inc.; Washington, DC
- BAE Systems, Inc.; Falls Church, VA
- Ball Aerospace & Technologies Corp.; Boulder, CO
- Belcan Corporation; Cincinnati, OH
- Beta Technologies; South Burlington, VT
- Boom Technology, Inc.; Denver, CO
- Booz Allen Hamilton; McClean, VA
- Boston Consulting Group; Boston, MA
- BRPH Architects Engineers, Inc.; Melbourne, FL

- Burns & McDonnell Engineering Corporation, Inc.; Kansas City, MO
- BWX Technologies, Inc.; Lynchburg, VA
- CADENAS PARTsolutions, LLC; Cincinnati, OH
- Cadence Design Systems, Inc.; San Jose, CA
- CAE USA; Tampa, FL
- Capewell Aerial Systems; South Windsor, CT
- Capgemini; New York, NY
- Celestica Inc..; Toronto, Canada
- Click Bond, Inc.; Carson City, NV
- Cobham Advanced Electronic Solutions (CAES); Arlington, VA
- COMSPOC Corporation; Exton, PA
- CPI Aerostructures, Inc.; Edgewood, NY
- Crane Aerospace & Electronics; Lynnwood, WA
- Deloitte Consulting LLP; New York, NY
- Ducommun Incorporated; Santa Ana, CA
- DXC Technology Company, Ashburn, VA
- Eaton Corporation; Cleveland, OH
- Elbit Systems of America, LLC; Fort Worth, TX
- Electra.aero; Manassas, VA
- Embraer Aircraft Holding Inc.; Fort Lauderdale, FL
- Enjet Aero, LLC; Overland Park, KS
- ENSCO, Inc.; Springfield, VA
- EPS Corporation; Tinton Falls, NJ
- Ernst & Young LLP; New York, NY
- Exosonic, Inc.; Los Angeles, CA
- Exostar LLC; Herndon, VA
- Ferra Aerospace, Inc.; Grove, OK
- FTG Circuits, Inc.; Chatsworth, CA
- General Atomics Aeronautical Systems, Inc.; Poway, CA
- General Dynamics Corporation; Reston, VA
- General Electric Aviation; Cincinnati, OH
- Google, LLC; Mountain View, CA
- GSE Dynamics, Inc.; Hauppauge, NY
- HCL America Inc.; Sunnyvale, CA
- HEICO Corporation; Hollywood, FL
- Hexcel Corporation; Stamford, CT
- Honeywell Aerospace; Phoenix, AZ
- Howmet Aerospace Inc.; Pittsburgh, PA
- Huntington Ingalls Industries, Inc.; Newport News, VA
- IBM Corporation; Armonk, NY
- Infosys; Richardson, TX
- Interos, Inc.; Arlington, VA
- Iron Mountain, Inc.; Boston, MA
- Jabil Defense & Aerospace Services LLC; St. Petersburg, FL
- Joby Aviation, Inc.
- Kaman Corporation; Bloomfield, CT
- KPMG LLP; New York, NY
- Kratos Defense & Security Solutions, Inc.; Round Rock, TX
- L3Harris Technologies, Inc.; Melbourne, FL
- Leidos, Inc; Reston, VA
- LS Technologies, LLC; Fairfax, VA
- Marotta Controls, Inc.; Montville, NJ
- Mercury Systems, Inc.; Andover, MA
- Metis Flight Research Associates; Albuquerque, NM
- Microchip Technology Incorporated; Chandler, AZ
- Microsoft Azure; Redmond, WA
- MTI Motion; Prairie View, WI
- National Technical Systems, Inc.; Calabasas, CA
- Net-Inspect, LLC; Kirkland, WA
- New England Air Foil Products, Inc.; Farmington, CT
- Nimbis Services, Inc.; Oro Valley, AZ
- Nokia US; Murray Hill, NJ
- Norsk Titanium US Inc.; Plattsburgh, NY
- Northrop Grumman Corporation; Falls Church, VA
- Oliver Wyman Inc.; New York, NY
- O'Neil & Associates, Inc.; Miamisburg, OH
- Pacific Forge Incorporated; Fontana, CA
- Parker Meggitt USA Inc.; Simi Valley, CA
- PCX Aerosystems, Santa Ana, CA
- Perryman Company; Houston, PA
- Plexus Corporation; Neenah, WI
- PPG Aerospace-Sierracin Corporation; Sylmar, CA
- PTC Inc.; Boston, MA
- PWC Aerospace & Defense Advisory Services; McLean, VA
- Raytheon Technologies Corporation; Arlington, VA
- Reaction Engines, Inc.; Denver, CO
- Relativity Space, Inc.; Long Beach, CA
- Reliable Robotics Corporation; Mountain View, CA
- Rhinestahl Corporation; Mason, OH
- Rolls-Royce North America Inc.; Reston, VA
- Salesforce, Inc.; San Francisco, CA
- SAP America, Inc.; Newtown Square, PA
- SB Technology, Inc.; San Francisco, CA
- Securitas Critical Infrastructure Services, Inc.; Springfield, VA
- SI2 Technologies; North Billerica, MA
- Siemens Government Technologies, Inc.; Reston, VA
- Sierra Space Corporation; Broomfield, CO
- SkyThread Corporation; Irvine, CA
- Solvay; Alpharetta, GA
- Spartronics LLC; Williamsport, PA
- Special Aerospace Services, LLC; Boulder, CO
- Spirit AeroSystems; Wichita, KS
- Spright; Gilbert, AZ
- Stratolaunch LLC; Mojave, CA
- Sunbelt Design and Development Inc.; San Antonio, TX
- Supernal LLC; Washington, DC
- SupplyOn North America, Inc.; Greer, SC
- Synergetic Technologies Group, Inc.; La Verne, CA
- SysArc Inc.; Rockville, MD
- Tata Consultancy Services; Edison, NJ
- Textron Inc.; Providence, RI
- The Aerospace Corporation, Civil Systems Group; El Segundo, CA
- The Boeing Company; Chicago, IL
- The Lundquist Group LLC; New York, NY
- The Padina Group, Inc.; Lancaster, PA
- Therm, Incorporated; Ithaca, NY
- Tip Technologies; Waukesha, WI
- Tribus Aerospace Corporation; Poway, CA
- TriMas Aerospace; Irvine, CA
- Triumph Group, Inc.; Berwyn, PA
- Umbra Lab, Inc.; Santa Barbara, CA
- Unitech Composites Inc.; Hayden, ID
- Verify, Inc.; Irvine, CA
- VIASAT, INC.; Carlsbad, CA
- Virgin Galactic, LLC; Las Cruces, NM
- Virgin Orbit Holdings, Inc.; Long Beach, CA
- Wisk Aero LLC; Mountain View, CA
- Woodward, Inc.; Fort Collins, CO
- World View Enterprises, Inc.; Tucson, AZ

Dated: January 9, 2023.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2023–00479 Filed 1–11–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology.

ACTION: Notice.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, March 1, 2023, from 10 a.m. until 4 p.m., Eastern Time, and Thursday, March 2, 2023, from 10 a.m. until 4 p.m., Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, March 1, 2023, from 10 a.m. until 4 p.m., Eastern Time, and Thursday, March 2, 2023, from 10 a.m. until 4 p.m., Eastern Time.

ADDRESSES: The meeting will be held at Grand Hyatt Washington, Quarter Penn A, 1000 H Street NW, Washington, DC 20001. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jeff Brewer, Information Technology

Laboratory, NIST, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, Telephone: (301) 975–2489, Email address: *jeffrey.brewer@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ISPAB will meet Wednesday, March 1, 2023, from 10 a.m. until 4 p.m., Eastern Time, and Thursday, March 2, 2023, from 10 a.m. until 4 p.m., Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including thorough review of proposed standards and guidelines developed by NIST. Details regarding the ISPAB's activities are available at *https://csrc.nist.gov/projects/ispab.*

The agenda is expected to include the following items:

—Board Introductions and Member Activities,
—Update from NIST's Information Technology Laboratory (ITL) Director,
—A Discussion of Risk Framework Uses by U.S. Federal Agencies,
—A Discussion of OMB Memo M–22–18 Enhancing the Security of the Software Supply Chain Through Secure Software Development Practices,
—A Presentation of the DHS CISA Cross Sector Cybersecurity Performance Goals,
—A Presentation of Inspector General Cybersecurity Metrics for Federal Agencies,
—A Presentation and Discussion on Federal Cybersecurity Strategic Plans,
—Public comments,
—Board Discussions and Recommendations.

Note that agenda items may change without notice. The final agenda will be posted on the ISPAB event page: *https://csrc.nist.rip/events/2023/ispab-march-2023-meeting.* Seating will be available for the public and media. Pre-registration is not required to attend this meeting.

Public Participation: Written questions or comments from the public are invited and may be submitted electronically by email to Jeff Brewer at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m. on Tuesday, February 28, 2023.

The ISPAB agenda will include a period, not to exceed thirty minutes, for submitted questions or comments from the public between 3:00 p.m. and 3:30 p.m. on Wednesday, March 1, 2023. Submitted questions or comments from the public will be selected on a first-come, first-served basis and limited to five minutes per person.

Members of the public who wish to expand upon their submitted statements, those who had wished to submit a question or comment but could not be accommodated on the agenda, and those who were unable to attend the meeting in person are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory by email to: *jeffrey.brewer@nist.gov.*

Admittance Instructions: No registration is required for this in-person only event.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2023–00529 Filed 1–11–23; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC664]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits.

SUMMARY: Notice is hereby given that permits have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore (Permit Nos. 26973 and 27033), Shasta McClenahan, Ph.D., (Permit No. 24359), and Courtney Smith, Ph.D. (Permit Nos. 26170 and 26599); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to *www.federalregister.gov* and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
24359	0648–XC245	NMFS Office of Protected Resources, Marine Mammal Health and Stranding Response Program, 1315 East West Highway, Silver Spring, MD 20910 (Responsible Party: Sarah Wilkin).	87 FR 48159, August 8, 2022.	December 20, 2022.
26170	0648–XC213	Keith Ellenbogen, Blue Reef, 189 Schermerhorn Street, 8E; Brooklyn, NY 11201.	87 FR 45764, July 29, 2022.	December 16, 2022.
26599	0648–XC426	Florian Graner, Ph.D., Sea-Life Productions, 4021 Beach Drive, Freeland, WA 98249.	87 FR 65040, November 4, 2022.	December 15, 2022.
26973	0648–XC507	Field Museum, 1400 S Lake Shore Drive, Chicago, Illinois 60605 (Responsible Party: Kevin Feldheim, Ph.D.).	87 FR 66656, October 27, 2022.	December 15, 2022.
27033	0648–XC519	Underdogs Films, Ltd., 4th Floor Embassy House, Queen's Avenue, Bristol, BS8 1SB, United Kingdom (Responsible Party: Tom Stephens).	87 FR 67451, November 8, 2022.	December 21, 2022.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed for Permit Nos. 26170, 26599, 26973, and 27033 are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), NMFS has determined that the activities proposed for Permit No. 24359 are consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement for the Marine Mammal Health and Stranding Response Program (MMHSRP; NMFS 2022). In a Record of Decision (ROD), signed on December 20, 2022, NMFS stated they had selected the Preferred Alternative, and the actions to be conducted under this alternative effectively meet the MMHSRP's mandates under title IV of the MMPA and PR1's permitting program, while minimizing the potential environmental impacts from the proposed actions.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

Authority: The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: January 6, 2023.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–00413 Filed 1–11–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC660]

Marine Mammals; File No. 22156

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Douglas Nowacek, Ph.D., Nicholas School of the Environment, Duke University Marine Laboratory, 135 Duke Marine Lab Rd, Beaufort, NC 28516, has applied for an amendment to Scientific Research Permit No. 22156–02.

DATES: Written, telefaxed, or email comments must be received on or before February 13, 2023.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 22156 mod No. 8 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 22156 mod 9 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 22156–02 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 22156, issued on May 8, 2020, (85 FR 35637), authorizes the permit holder to conduct research on 31 cetacean species in U.S. and international waters of the North Atlantic Ocean. Species include endangered blue (*Balaenoptera musculus*), fin (*B. physalus*), sei (*B. borealis*), and sperm (*Physeter macrocephalus*) whales. The purpose of the research is to study variation in cetacean behavior, foraging ecology, body condition, health status, population structure, and use of and response to sounds. The permit authorizes surveys by vessel and an unmanned aircraft system (UAS) to approach, count, observe, photograph, remotely measure, and track cetaceans. During surveys, researchers may conduct acoustic playback trials, collect biological samples, and tag animals, with some species receiving two tags at a time. Non-target cetaceans in the vicinity of research may be unintentionally harassed. Biological samples collected in international waters may be imported into the United States and cell lines may be developed from tissue samples. Two minor amendments to the permit were issued to update biopsy sampling mitigation measures (Permit No. 22156–01; January 29, 2021) and expand the use of UAS to all authorized species (Permit No. 22156–02; May 23, 2022). The permit holder is requesting the permit be amended to include authorization to temporarily mark adult and juvenile short-finned pilot whales (*Globicephala macrorhynchus*) and bottlenose dolphins (*Tursiops truncatus*) with paintballs to investigate how social marine mammals coordinate dive patterns. Take numbers for these species would not increase. The amendment would be valid for the duration of the permit, until May 31, 2025.

A draft environmental assessment (EA) has been prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), to examine whether significant environmental impacts could result from issuance of the proposed amendment to the scientific research permit. The draft EA is available for review and comment simultaneous with the scientific research permit amendment application.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 6, 2023.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–00502 Filed 1–11–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Evaluations of Coastal Zone Management Act Programs: State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information-collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before March 13, 2023.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov*. Please reference OMB Control Number 0648–0661 in the subject line of your comments. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Michael Migliori, lead evaluator, NOS Office of Coastal Management, 1305 East West Hwy., Bldg. SSMC4, Silver Spring, MD 20910, (443) 332–8936, or *Michael.Migliori@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision and extension of a currently approved information collection. A few questions will be rewritten to improve the usefulness of information collected. A new question is proposed for inclusion that will collect information from Coastal Zone Management Act programs about efforts in diversity, inclusion, equity, and accessibility.

The Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 *et seq.*) requires that state coastal management programs and national estuarine research reserves developed in accordance with the CZMA and approved by the Secretary of Commerce be evaluated periodically. This request is to collect information to accomplish those evaluations. NOAA's Office for Coastal Management conducts periodic evaluations of the 34 coastal management programs and 30 research reserves and produces written findings for each evaluation. The Office for Coastal Management has access to documents submitted in cooperative agreement applications, performance reports, and certain documentation required by the CZMA and implementing regulations. However, additional information from each coastal management program and research reserve, as well as information from the program and reserve partners and stakeholders with whom each works, is necessary to evaluate against statutory and regulatory requirements. Different information collection subsets are necessary for (1) coastal management programs, (2) their partners and stakeholders, (3) research reserves, and (4) their partners and stakeholders.

As part of this submission, a few questions will be modified to clarify the information that should be provided as part of the information requests and questionnaires sent to the coastal program and reserve managers. One new question about efforts in diversity, inclusion, equity, and accessibility will be included for coastal program and reserve managers. A few questions will be revised to clarify and improve the usefulness of responses for the partners and stakeholders' survey.

Given the addition of a designated research reserve since the last renewal of this information collection and the anticipated designation of additional reserves in the coming years, and an increase in Office for Coastal Management staff capacity to conduct evaluations, the number of CZMA programs to be evaluated, on average, in the next three years will increase from 11 to 12 programs per year. This increase in the number of programs to be evaluated will also increase the number of partner and stakeholder respondents to this information collection.

II. Method of Collection

Coastal program and reserve manager respondents will receive information requests and questionnaires via email, and submittals will be made via email. Partners and stakeholders of coastal management programs and of reserves will receive a link to a web-based survey tool and respond through the survey tool.

III. Data

OMB Control Number: 0648–0661.

Form Number(s): None.

Type of Review: Regular submission (revision and extension of a current information collection).

Affected Public: Business or other for-profit organizations; not-for-profit institutions; state, local, or tribal government; federal government.

Estimated Number of Respondents: 288.

Estimated Time per Response: 72 hours per CZMA program manager's evaluation; 15 minutes per partner/stakeholder response.

Estimated Total Annual Burden Hours: 933.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

Respondent's Obligation: Mandatory for CZMA programs; voluntary for program partners and stakeholders.

Legal Authority: Section 312 of the Coastal Zone Management Act, as amended (16 U.S.C. 1458).

IV. Request for Comments

We are soliciting public comments to permit the Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you may ask us in your comment to withhold your personally identifiable information from public review, we

cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–00463 Filed 1–11–23; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2023–HQ–0003]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to HQ AETC/A5QR, 61 Main Circle, Ste. 2, Bldg. 675, JBSA Randolph TX, 78150, Richard W. Tilton, 210–652–6837.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Graduate/Training Integration Management System (G/TIMS); OMB Control Number 0701–GTMS.

Needs and Uses: The Graduate/Training Integration Management System (G/TIMS) is the United States Air Force's preferred electronic method for tracking all pilot training for all proficiency levels (*e.g.,* undergraduate and graduate). The information within G/TIMS is necessary for Air Force leaders to ensure all members of the flying community are continuously trained, certified, and are both physically and mentally fit to fly. Privacy information is used to properly identify each member.

Affected Public: Individuals or households.

Annual Burden Hours: 125.

Number of Respondents: 500.

Responses per Respondent: 1.

Annual Responses: 500.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00457 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2023–HQ–0002]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. *Comments are invited on:* 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Product Manager for Force Protection Systems (PdM–FPS), 5900 Putnam Road, Building 365/Suite 1, (SFAE–IEW–TF), ATTN: Mark Shuler, Fort Belvoir, VA 22060–5420, or call PdM–FPS at 703–704–2402.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Automated Installation Entry (AIE) System; OMB Control Number 0702–0125.

Needs and Uses: The information collection requirement is necessary to verify the identity of an individual and determine the fitness of said individual requesting and/or requiring access to installations, and issuance of local access credentials. The information collection methodology involves the employment of technological collection of data via an electronic physical access control system (PACS) which provides the capability to rapidly and

electronically authenticate credentials and validate an individual's authorization to enter an installation.

Affected Public: Individuals or households; Business or other for-profit.

Annual Burden Hours: 40,349.

Number of Respondents: 1,210,476.

Responses per Respondent: 1.

Annual Responses: 1,210,476.

Average Burden per Response: 2 minutes.

Frequency: On occasion.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00452 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Early Engagement Opportunity: Implementation of National Defense Authorization Act for Fiscal Year 2023

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: DoD announces an early engagement opportunity regarding implementation of the National Defense Authorization Act for Fiscal Year 2023 within the acquisition regulations.

DATES: Early inputs should be submitted in writing via the Defense Acquisition Regulations System (DARS) website shown below. The website will be updated when early inputs will no longer be accepted.

ADDRESSES: Submit early inputs via the DARS website at *https://www.acq.osd.mil/dpap/dars/early_engagement.html.* Send inquiries via email to *osd.dfars@mail.mil* and reference ''Early Engagement Opportunity: Implementation of NDAA for FY 2023'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Jennifer D. Johnson, telephone 703–717–8226.

SUPPLEMENTARY INFORMATION: DoD is providing an opportunity for the public to provide early inputs on implementation of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 within the acquisition regulations. The public is invited to submit early inputs on sections of the NDAA for FY 2023 via the DARS website at *https://www.acq.osd.mil/dpap/dars/early_engagement.html.* The website will be updated when early inputs will no longer be accepted. Please note, this venue does not replace or circumvent the rulemaking process. DARS will engage in formal rulemaking, in accordance with 41 U.S.C. 1707, when it has been determined that rulemaking is required to implement a section of the NDAA for FY 2023 within the acquisition regulations.

Authority: DoD Instruction 5000.35, Defense Acquisition Regulations (DAR) System.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2023–00503 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0004]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Military Community Support Programs, 4800 Mark Center Drive, Suite 14E08, Alexandria, VA 22350, C. Eddy Mentzer, (571) 309–4977.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Spouse Employment Partnership (MSEP) Partner Portal; OMB Control Number 0704–0563.

Needs and Uses: The information collection requirement is necessary to allow MSEP Partners to apply to be part of the partnership, report spouse hires, and access spouse employment data.

Affected Public: Individuals or households; Business or Other For-Profit.

MSEP Partners

Annual Burden Hours: 16,800.

Number of Respondents: 700.

Responses per Respondent: 24.

Annual Responses: 16,800.

Average Burden per Response: 1 hour.

Businesses/Companies

Annual Burden Hours: 1,200.

Number of Respondents: 100.

Annual Responses: 2,400.

Average Burden per Response: 30 minutes.

Responses per Respondent: 24.

Total

Annual Burden Hours: 18,000.

Number of Respondents: 800.

Annual Responses: 19,200.

Frequency: Bi-Monthly for MSEP Partners; Once for Businesses/Companies.

The Military Spouse Employment Partnership (MSEP) Partner Portal is the sole web platform utilized to connect the program office with MSEP employer partners and potential partners. Participating companies, called MSEP Partners, are vetted and approved participants in the MSEP Program and

have pledged to recruit, hire, promote and retain military spouses in portable careers. MSEP is a targeted recruitment and employment partnership that connects American businesses with military spouses who possess essential 21st-century workforce skills and attributes and are seeking portable, fulfilling careers. The MSEP program is part of the overall Spouse Education and Career Opportunities (SECO) program which falls under the auspices of the office of the Deputy Assistant Secretary of Defense for Military Community & Family Policy.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00451 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0002]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Department of Defense Education Activity (Executive Services Division), 4800 Mark Center Drive, Alexandria, VA 22350, Samuel Gotti, (571) 372–1891.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; And Omb Number: Application for DoD Impact Aid for Children with Severe Disabilities; SD Form 816 and SD Form 816c; OMB Control Number 0704–0425.

Needs And Uses: The information collection requirement is necessary to authorize DoD funds for local educational agencies (LEAs) that educate military dependent students with severe disabilities that meet certain criteria. This application will be requested of military-impacted LEAs to determine if they meet the DoD criteria to receive compensation for the cost of educating military dependent students with severe disabilities.

Affected Public: State, Local, or Tribal governments.

Annual Burden Hours: 400.

Number of Respondents: 50.

Responses Per Respondent: 1.

Annual Responses: 50.

Average Burden Per Response: 8 hours.

Frequency: Annual.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00456 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2023–OS–0003]

Proposed Collection; Comment Request

AGENCY: The Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments,

please write to Department of Defense Education Activity (Executive Services Division), 4800 Mark Center Drive, Alexandria, VA 22350, Samuel Gotti, (571) 372–1891.

SUPPLEMENTARY INFORMATION: *Title; Associated Form; and OMB Number:* Department of Defense Education Activity (DoDEA) School Registration and Sure Start Registration; DoDEA Form 600; OMB Control Number 0704–0495.

Needs and Uses: This information collection requirement is necessary to obtain information on Department of Defense military and civilian sponsors and their dependents. The information obtained from sponsors is used to determine their dependents' enrollment eligibility to attend the Department of Defense Education Activity (DoDEA) schools. This includes determination of enrollment categories, whether tuition-free or tuition-paying, space-required or space-available. Information gathered for students is used for age verification, class and transportation schedules, record attendance, absence and withdrawal, record and monitor student progress, grades, course and grade credits, educational services and placement, activities, student awards, special interest, and accomplishments.

Affected Public: Individuals or households.

Annual Burden Hours: 27,356.25.

Number of Respondents: 72,950.

Responses per Respondent: 1.

Annual Responses: 72,950.

Average Burden per Response: 22.5 minutes.

Frequency: Annually.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00450 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0033]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 13, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Network of Support Pilot Program Survey; OMB Control Number 0704–NSPP.

Type of Request: New.

Number of Respondents: 75.

Responses per Respondent: 1.

Annual Responses: 75.

Average Burden per Response: 9 minutes.

Annual Burden Hours: 11.25.

Needs and Uses: The DoD and American Red Cross have entered into an agreement to encourage members of the Armed Forces to designate persons to receive information regarding the military service. These designated persons are made eligible to opt-in to receive a DoD Military OneSource Friends & Family Connection eNewsletter to provide a greater understanding of military life, military career progression, and resources available to service members and their families at various stages of military life. In accordance with National Defense Authorization Act 2020 SEC. 507E, the DoD, in consultation with the American Red Cross, shall administer a survey to persons who elected to receive information under the pilot program no later than two years after the date on which the pilot program commences. The purpose for the survey under review is to receive feedback regarding the quality of information disseminated to the designated recipients, including whether such information appropriately reflects the military career progression of members of the Armed Forces. The Network of Support Pilot Program Survey will collect information from friends and family members identified by active-duty service members or through self-identification via the American Red Cross Hero Network, who have opted-in to communications from the Military OneSource Friends & Family Connection eNewsletter. The survey is voluntary. Respondents who have opted-in to the program to receive the Military OneSource Friends & Family Connection eNewsletter have unique insight regarding the quality of information received from non-dependents.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00458 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0098]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information

under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 13, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Evaluation of the DoD SPARX Knowledge Training Program; OMB Control Number 0704–ESKP.

Type of Request: New.

Number of Respondents: 820.

Responses per Respondent: 5.6.

Annual Responses: 4,590.

Average Burden per Response: 17.81 minutes.

Annual Burden Hours: 1362.4.

Needs and Uses: In a memo dated 26 February 2021, the Secretary of Defense required the Military Departments to ensure that at least half of their identified violence prevention workforce receives initial training by 31 December 2021, with the entire workforce trained by 30 June 2022. To meet this need, the Office of Force Resiliency's Violence Prevention Cell has developed an integrated violence prevention curriculum, titled DoD SPARX Knowledge, to establish a common base of knowledge within the prevention workforce. The purpose of this information collection is to evaluate the effectiveness of the DoD SPARX Knowledge training program and make improvements to the program, as needed. The curriculum is appropriate for Service Members and DoD civilians serving in violence prevention roles and is broken into modules that align with the prevention process of the Prevention Plan of Action and the data-informed actions of the Integrated Prevention Policy. The overarching goal of the DoD SPARX Knowledge training is to equip the prevention workforce with the appropriate knowledge, skills, and resources to select, implement, and evaluate research-based prevention activities.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00449 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2023–HQ–0002]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Navy announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions. received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Department of the Navy Information Management Control Officer, 2000 Navy Pentagon, Rm. 4E563, Washington, DC 20350, ATTN: Ms. Sonya Martin, or call 703–614–7585.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Naval Sea Systems Command and Field Activity Visitor Access Request; NAVSEA Form 5500/1; OMB Control Number 0703–0055.

Needs and Uses: The information collection requirement is necessary for Naval Sea Systems Command and Naval Sea Systems Command Field Activities at Washington Navy Yard, Washington DC to verify that visitors have the appropriate credentials, clearance level, and need-to know to be granted access to NAVSEA spaces. Information is also collected in order for NAVSEA Security to keep a record of visitors to NAVSEA spaces. Individuals who wish to visit the NAVSEA Headquarters (HQ) building will need to sign a NAVSEA Form 5500/1, ''NAVSEA Visitor's Sign In/Out Sheet.'' Respondents are visitors conducting official business or attending official or representational events, and will be either escorted or unescorted. Respondents are Navy support contractors, individuals from other agencies visiting the Command and Field Activities, and various members of the public.

Affected Public: Individuals or households.

Annual Burden Hours: 2,500.

Number of Respondents: 30,000.

Responses per Respondent: 1.

Annual Responses: 30,000.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00453 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2023–HQ–0004]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States Marine Corps announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Marine Corps WWR Headquarters, 3280 Russell Road, Quantico, VA 22134, ATTN: Ms. Sonya Martin, or call 703–432–1850.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Marine Corps Trials Registration; OMB Control Number 0703–MCTR.

Needs and Uses: The Marine Corps Wounded Warrior Regiment (WWR) is the official command charged by the Commandant of the Marine Corps to provide leadership and facilitate the integration of non-medical and medical care to combat and non-combat wounded, ill, and injured (WII) Marines, sailors attached to Marine units, and their family members in order to maximize their recovery as they return to duty or transition to civilian life. The Marine Corps Trials (MCT) is a multi-event adaptive sports competition for WII Marines, Sailors, veterans and international participants that promotes recovery through adaptive sports, develops camaraderie among recovering service members and veterans, and serves as the primary selection venue for the annual Department of Defense (DoD) Warrior Games (WG). This information collection is required to capture critical information on respondents to ensure safe participation, fair competition, and appropriate accommodations are provided for recovering service members (RSMs) to compete in the MCT. Respondents are eligible WWR recovering service members (RSMs), including veterans and international service members, who are interested in participating in the MCT. The MCT Registration form is a comprehensive collection of data intended to manage all aspects of athlete attendance and participation in the MCT, to include: accurate assignment to chosen adaptive sport and classification category, accessible billeting, medical considerations (non-medical attendant needs, service animal, special dietary needs etc.), and travel details.

Affected Public: Individuals or households.

Annual Burden Hours: 37.5.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 15 minutes.

Frequency: Annually.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00455 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2023–HQ–0003]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Navy announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 13, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions

from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Department of the Navy Information Management Control Officer, 2000 Navy Pentagon, Rm. 4E563, Washington, DC 20350, ATTN: Ms. Sonya Martin, or call 703–614–7585.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Enterprise Military Housing II; OMB Control Number 0703–0066.

Needs and Uses: 10 United States Code, Section 1056 requires the provision of relocation assistance to military members and their families. Requirements include provision of information on housing costs/availability and home finding services. The Enterprise Military Housing System (eMH) includes a public website (*HOMES.mil*) which collects information needed to facilitate military personnel searching for suitable community rental housing within close proximity to military installations. Property owners may use the *HOMES.mil* web application to list properties available for lease by service members and their families. They also have the option to call installation military housing offices and provide the information required to create a listing over the phone. Additionally, service members and their dependents may use the *HOMES.mil* Housing Early Assistance Tool (HEAT) to request information and housing services from the installation military housing office.

Affected Public: Individuals or households; Business or other for-profit.

Property Listings

Annual Burden Hours: 17,485.
Number of Respondents: 10,491.
Responses per Respondent: 5.
Annual Responses: 52,455.
Average Burden per Response: 20 minutes.

Housing Early Assistance Tool (HEAT) Requests

Annual Burden Hours: 323.
Number of Respondents: 1,938.
Responses per Respondent: 1.
Annual Responses: 1,938.
Average Burden per Response: 10 minutes.
Frequency: On occasion.

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00454 Filed 1–11–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Special Education Parent Information Centers—Technical Assistance for Parent Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice. January 12, 2023.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2023 for Technical Assistance for Parent Centers, Assistance Listing Number 84.328R. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES: Applications Available: January 12, 2023.

Deadline for Transmittal of Applications: March 28, 2023.

Deadline for Intergovernmental Review: May 30, 2023.

Pre-Application Webinar Information: No later than January 17, 2023, OSERS will post pre-recorded informational webinars designed to provide technical assistance to interested applicants. The webinars may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.* Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW, Room 5144, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6595. Email: *Carmen.Sanchez@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 Special Education Parent Information Centers program is to ensure that parents of children with disabilities receive high-quality, relevant, and useful training and information to help improve outcomes for their children.

Priority: This competition includes one absolute priority and two focus areas. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in sections 670–673 and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1470–1473 and 1481(d). Within focus area 1 of the absolute priority, we include one competitive preference priority, and within focus area 2 of the absolute priority, we include two competitive preference 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:

Technical Assistance for Parent Centers.

Background:

The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation. Section 673 of IDEA authorizes technical assistance (TA) for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers (PTIs) that receive assistance under section 671 of IDEA and by community parent resource centers (CPRCs) that receive assistance under section 672 of IDEA (collectively, ''parent centers''). The purpose of this priority is to fund five cooperative agreements to establish and operate five parent technical assistance centers (PTACs) across two focus areas to provide TA to parent centers. A center for parent information and resources (CPIR) will focus on developing products for all parent centers (Focus Area 1). Four regional parent training and technical assistance centers (regional PTACs) will focus on

providing capacity-building TA to the parent centers in their regions (Focus Area 2).

The work of the proposed centers is consistent with the following Secretary's Supplemental Priorities, which were published in the **Federal Register** on December 10, 2021 (86 FR 70612): Priority 2—Promoting Equity in Student Access to Educational Resources and Opportunities; Priority 4—Meeting Student Social, Emotional, and Academic Needs; Priority 5—Increasing Postsecondary Education Access, Affordability, Completion, and Post-Enrollment Success; and Priority 6—Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change.

The 90 parent center grants (*www.parentcenterhub.org/find-your-center/*) currently funded by the Department promote the effective education of infants, toddlers, children, and youth with disabilities by ''strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home'' (section 601(c)(5)(B) of IDEA). For the past 40 years, parent centers, consistent with section 671(b) of IDEA, have helped parents navigate systems providing early intervention, special education and related services, general education, and postsecondary options; understand the nature of their children's disabilities; learn about their rights and responsibilities under IDEA; expand their knowledge of evidence-based [1] practices (EBPs) to help their children succeed; strengthen their collaboration with educators and other professionals; locate resources for themselves and their children; and advocate for improved child outcomes and student achievement, increased graduation rates, and improved postsecondary outcomes for all children through participation in program and school reform activities. In addition, parent centers have helped youth with disabilities understand their rights and responsibilities and learn self-advocacy skills.

Consistent with the statute, PTACs provide support to parent centers to carry out these statutorily required activities and thereby help parents participate in the education of their children to improve their children's outcomes. In addition, section 673(b) of IDEA lists potential areas in which parent centers may also need TA from PTACs, such as: (1) coordinating parent training efforts; (2) disseminating evidence-based research and information; (3) promoting the use of technology, including assistive technology devices and services; (4) reaching underserved [2] parents; (5) including children with disabilities in general education programs; (6) facilitating all transitions from early intervention through postsecondary environments; and (7) promoting alternative methods of dispute resolution, including mediation. Parent centers have also identified through needs assessment that they have a need for TA to increase their capacity to reach, and provide virtual and in-person services to, youth with disabilities and parents of infants, toddlers, and preschool children.

PTACs provide needed support to parent centers on other topics as well, including current information on laws and policies; translating EBPs to improve outcomes for children with disabilities and their families; how to help parents learn about and access high-quality education options that allow their children to meet challenging objectives appropriate in light of the child's circumstances; and ways to effectively engage in education reform activities, including Federal, State, and local initiatives. Ongoing TA, responsive to the individual needs of parent centers, can increase parent center staff's knowledge and expertise on these topics. In addition, since many parent centers are grassroots organizations with small budgets, they often benefit from TA on managing a Federal grant, maximizing efficient use of their resources, meeting complex statutory and regulatory requirements for nonprofits, and providing professional development to staff. External evaluation reports, as part of the PTACs' annual performance reports (APRs), indicate that the TA they provided has substantially increased parent centers' capacity to respond effectively to parents and youth during disasters, including the COVID–19 pandemic.

The following website provides more information on the current parent centers, including links to each grantee's website: *www.parentcenterhub.org.*

Priority:

The purpose of this priority is to fund five cooperative agreements to establish and operate one CPIR (Focus Area 1) and four regional PTACs (Focus Area 2). The CPIR will develop and disseminate resources for all parent centers to use when working with parents of children with disabilities (hereafter ''parents'') and youth with disabilities (hereafter ''youth''). The CPIR will also develop and disseminate materials that all parent centers can use to train staff to effectively reach and serve all parents and youth. The four regional PTACs will provide TA to parent centers within their region to effectively manage their centers and reach and serve all parents and youth. The CPIR and regional PTACs will coordinate their efforts in order to maximize resources and avoid duplication. An applicant may submit applications in both focus areas; however, an applicant is limited to only one application in each focus area (*e.g.,* apply for only one region under Focus Area 2).

Focus Area 1:

The CPIR will provide universal, general TA [3] to the parent centers across the Nation and serve as a virtual hub for collaboration and training. The CPIR must achieve, at a minimum, the following expected outcomes:

(a) Increased parent centers' knowledge, through the development and dissemination of high-quality information and products, of—

(1) Early intervention and educational EBPs and current Federal, State, Tribal, and other laws and policies that impact children and youth with disabilities and their families;

(2) Effective and equitable practices in carrying out parent center activities including outreach, family-centered services, and self-advocacy skill building; and

[1] Evidence-based, as defined in 34 CFR 77.1, means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

[2] Consistent with the Secretary's Supplemental Priorities, underserved parents include: parents living in poverty; parents of color; parents who are members of a federally or state recognized Indian Tribe; parents who are English learners; parents with a disability; disconnected parents; technologically unconnected parents; migrant parents; parents experiencing homelessness or housing insecurity; lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) parents; foster parents; parents without documentation of immigration status; parents impacted by the justice system, including formerly incarcerated parents and parents of children in the juvenile justice system; parents in need of improving their basic skills or with limited literacy; and military- or veteran-connected parents.

[3] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

(3) Effective nonprofit management practices, to include developing a robust infrastructure for remote service provision; hiring strategies and succession planning; and board development.

(b) Increased parent centers' use of high-quality materials and approaches to train—

(1) Staff in effective and equitable practices in carrying out parent center activities including outreach, family-centered services, and self-advocacy skill building; and

(2) Multilingual staff—in their native languages to the extent practicable—and to ensure the accuracy of the translation of materials they provide in languages other than English.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address parent centers' needs both for resources to effectively reach and serve all parents and youth, including underserved parents and youth, and for materials to train staff to effectively reach and serve all parents and youth. To meet this requirement, the applicant must—

(i) Present applicable national data on the needs of parent centers; and

(ii) Demonstrate knowledge of—

(A) Current educational issues and policy initiatives relating to early childhood (ages birth through five), general and special education, secondary transition services, and postsecondary options; and

(B) Best practices in—

(1) Equitable outreach; family-centered services; and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents and youth in urban, suburban, and rural communities;

(2) Staff training, including training for multilingual staff; and

(3) Nonprofit management, including remote service provision; hiring strategies and succession planning; and board development;

(2) Increase the knowledge of parent centers on how to reach, and provide virtual and in-person services to, all parents and youth, to train staff using high-quality training materials, and to apply management best practices; and

(3) Indicate the likely magnitude or importance of the improvements in parent centers' service provision.

(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 parent centers for TA and information;

Note: The methods and tools to identify needs will be finalized in consultation with the regional PTACs and the Office of Special Education Programs (OSEP) project officers in order to assure coordination and avoid duplication; and

(ii) Ensure that products and services meet the needs of the parent centers;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, and outputs in addition to the intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on outreach, family-centered services, and self-advocacy skill building, including effective and equitable outreach and service provision to underserved parents and youth; staff training, including training for multilingual staff; and nonprofit management;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify how knowledgeable the parent centers are regarding outreach, family-centered services, and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents and youth; staff training, including training for multilingual staff; and nonprofit management;

(ii) Its proposed approach to universal, general TA, which must identify the intended recipients within the parent centers, including the type and number of recipients, that will receive the products and services under this approach and must, at minimum, include how the project will—

(A) Create, update, and maintain an online, annotated repository of high-quality resources produced by the CPIR, OSEP-funded projects, and other federally funded projects for parent centers' use with families, youth, staff members, and members of the boards of directors, including translations of materials as needed;

(B) Develop, as needed, up-to-date, family-centered resources that parent centers can use with parents and youth in a variety of languages, formats, and reading levels, including when providing virtual services;

(C) Disseminate and modify, as needed, family–centered resources developed by OSEP and other federally funded centers such as the proposed Center on Dispute Resolution to provide all parents, particularly underserved parents, with information on their and their children's rights and responsibilities under IDEA and other Federal laws;

(D) Disseminate and modify, as needed, family–centered resources developed by OSEP and other federally funded centers to provide families with strategies to enhance their children's academic skills, self-advocacy, social emotional skills, and behavior and mental health at home, to include information about accessing Federal, State, and local programs, benefits, and resources that provide support;

(E) Disseminate and modify, as needed, family-centered resources

developed by OSEP and other federally funded centers to provide families with strategies to enhance their children's preparation to transition from school to postsecondary education and training, and the workforce, including self-advocacy and skills needed for independent living, to include information about accessing Federal, State, and local programs, benefits, and resources that provide support;

(F) Compile and create materials to train staff, including multilingual staff, to effectively provide services to underserved parents and youth; and

(G) Compile and create materials on nonprofit management, as needed, and develop a process for an annual orientation of new parent center directors and other key personnel and members of the boards of directors that provides the new personnel with the information and resources they need to carry out their responsibilities;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration;

(iii) How the proposed project will use existing knowledge and expertise within parent centers to achieve intended project outcomes; and

(iv) How the proposed project will use non-project resources to achieve the intended project outcomes;

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information and products to parent centers, using a variety of dissemination strategies, to promote awareness and use of the CPIR's products and services; and

(8) Assist parent centers in the collection of annual performance data required under section 671(b)(12) of IDEA, in consultation with the OSEP project officer.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[4] The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions must be related to the project's proposed logic model required in paragraph (b)(2)(ii) of this notice;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the APR and in Year 2 for the review process described under the heading, *Fourth and Fifth Years of the Project;* and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, youth, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day virtual kick-off meeting after receipt of the award, and an annual virtual planning meeting with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period. The project must reallocate funds for travel to the project directors' conference no later than the end of the third quarter of each budget period if the meeting is conducted virtually;

(iii) One annual two-day trip to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive virtual 3+2 review meeting during the last half of the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later

[4] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to parent centers during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project:

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in family-centered services. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

Focus Area 2:

The four regional PTACs will provide targeted, specialized TA [5] and intensive, sustained TA [6] to the parent centers in their respective areas. The regional PTACs must achieve, at a minimum, the following expected outcomes:

(a) Increased parent center capacity to inform and train parents both virtually and in person on—

(1) Early intervention and educational EBPs;

(2) Their rights and responsibilities under Federal, State, Tribal, and other laws and policies that impact children with disabilities and their families; and

(3) Accessing Federal, State, and local programs, benefits, and resources that support children with disabilities, youth with disabilities, and their families;

(b) Increased parent center capacity to reach more parents and youth and effectively provide equitable parent center services to help more parents improve outcomes for their children and to help youth build their self-advocacy skills;

(c) Increased parent center capacity to provide effective and equitable outreach and service provision to all parents and youth; and

(d) Increased parent center capacity to effectively manage their nonprofit organizations and projects and to provide high-quality training to staff, including multilingual staff, to reach and serve all parents and youth in their region.

The geographic regions served by the four regional PTACs are generally aligned with the States served by the Equity Assistance Centers funded under Title IV of the 1964 Civil Rights Act, while also balancing the number of centers each regional PTAC will have in its region. This alignment will help the regional PTACs meet the requirement in section 673(c) of IDEA that the regional PTACs develop collaborative agreements with the geographically appropriate centers. The four regional PTACs will represent the following geographic regions:

Region A PTAC: CT, DC, DE, ME, MA, MD, NH, NJ, NY, PA, Puerto Rico, RI, U.S. Virgin Islands, VT.

Region B PTAC: AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, VA.

Region C PTAC: IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, SD, WI, WV, WY.

Region D PTAC: AK, AZ, CA, CO, HI, ID, NM, NV, OR, UT, WA, the outlying areas of the Pacific Basin, the Freely Associated States.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the needs of parent centers in its region for TA to increase their capacity to reach, and provide virtual and in-person services to, parents and youth in their areas, including underserved parents and youth; build youth's self-advocacy skills; train staff; and effectively manage their centers. To meet this requirement the applicant must—

(i) Present applicable information on the needs of parent centers in the region; and

(ii) Demonstrate knowledge of—

(A) Current early intervention and educational issues and policy initiatives relating to early childhood, general and special education, secondary transition services, and postsecondary options; and

(B) Best practices in—

(1) Equitable outreach; family-centered services; and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents and youth in urban, suburban, and rural communities;

(2) Staff training, including training for multilingual staff; and

(3) Nonprofit management, including remote service provision; hiring strategies and succession planning; and board development; and

(2) Increase the capacity of parent centers to reach, and provide virtual and in-person services to, all parents and youth, train staff, and manage their projects; and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the parent centers in the proposed region for TA and information;

Note: The methods and tools to identify needs will be finalized in consultation with the CPIR, other regional PTACs, and the OSEP project

[5] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[6] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

officers in order to assure coordination and avoid duplication; and

(ii) Ensure that products and services meet the needs of the intended parent centers;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, and outputs in addition to the intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on outreach, family-centered services, and self-advocacy skill building, including effective and equitable outreach and service provision to underserved parents and youth; staff training, including training for multilingual staff; and nonprofit management;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to work with the CPIR to identify the materials and products on parental and child rights under Federal laws, outreach, family-centered services, and self-advocacy skill building, including effective and equitable outreach and virtual and in-person service provision to underserved parents and youth; staff training, including training for multilingual staff; and nonprofit management;

(ii) Its proposed approach to targeted, specialized TA [7] to the parent centers in the regions and how the project will—

(A) Conduct at least one in-person, on-site visit to each parent center in the region during the course of the five-year project period;

(B) Increase parent centers' capacity to reach and provide services to all parents and youth, including underserved parents and youth;

(C) Increase parent centers' capacity to train staff, including multilingual staff, to provide effective and appropriate outreach and services to underserved parents and youth; and

(D) Increase parent centers' capacity to effectively manage nonprofit organizations, including: developing the board of directors so that parent centers have the organizational policies, procedures, and structure in place to manage their grants effectively; providing remote services; developing and implementing hiring strategies; and developing succession plans; and

(iii) Its proposed approach to intensive, sustained TA,[8] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of the parent centers to work with the project;

(C) Its proposed plan for assisting parent centers to build or enhance their staff training and professional development based on adult learning principles and coaching; and

(D) Its proposed approach to providing intensive TA to parent centers when requested by OSEP project officers;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration;

(iii) How the proposed project will use existing knowledge and expertise within parent centers to achieve intended project outcomes;

(iv) How the proposed project will use the resources housed in and developed by the CPIR and build on the CPIR's universal TA; and

(v) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to the parent centers in the region, using a variety of dissemination strategies, to promote awareness and use of the regional PTAC's products and services.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[9] The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions must be related to the project's proposed logic model required in paragraph (b)(2)(ii) of this notice;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the APR; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

Note: The evaluations for all the regional PTACs will be developed in consultation with the regional PTACs and OSEP project officers for the regional PTACs.

[9] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one- and one-half day virtual kick-off meeting after receipt of the award, and an annual virtual planning meeting with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two- and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period. The project must reallocate funds for travel to the project directors' conference no later than the end of the third quarter of each budget period if the meeting is conducted virtually; and

(iii) One annual two-day trip, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to parent centers in the center's region during the transition to this new award period and at the end of this award period, as appropriate.

Competitive Preference Priorities: Within this absolute priority, we give competitive preference to applications that address the following priorities. Under 34 CFR 75.105(c)(2)(i), for an application under Focus Area 1, we will award five additional points if the application meets Competitive Preference Priority 1. For an application under Focus Area 2, we will award five additional points if the application meets Competitive Preference Priority 1 and five additional points if the application meets Competitive Preference Priority 2, for a total of 10 possible additional points.

These priorities are:

Competitive Preference Priority 1—Applicants That Are Parent Organizations (5 Points).

Applicants under Focus Area 1 or Focus Area 2 that are ''parent organizations.'' A ''parent organization'' is a private nonprofit organization (other than an institution of higher education) that—

(a) Has a board of directors—

(1) The majority of whom are parents of children with disabilities ages birth through 26;

(2) That includes—

(i) Individuals working in the fields of special education, related services, and early intervention; and

(ii) Individuals with disabilities; and

(3) The parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(b) Has as its mission serving families of children with disabilities who—

(1) Are ages birth through 26; and

(2) Have the full range of disabilities described in section 602(3) of IDEA. (Section 671(a)(2) of IDEA)

Competitive Preference Priority 2—Location (5 Points).

Applicants under Focus Area 2 that are located in the region they propose to serve.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1470–1473 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 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.

II. Award Information

Type of Award: Cooperative agreements.

Available Funds: $2,940,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2024 from the list of unfunded applications from this competition.

Maximum Award:

Focus Area 1: We will not make an award exceeding $840,000 for a single budget period of 12 months.

Focus Area 2: We will not make an award exceeding $525,000 for a single budget period of 12 months.

Estimated Number of Awards:

Focus Area 1: 1.

Focus Area 2: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Private nonprofit organizations.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *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 Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed below:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project

reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and 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 determining the adequacy of resources and quality of project personnel for the proposed project, the Secretary considers one or more of 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.

(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 (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII,

require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an APR that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Special Education Parent Information Centers program. These measures are:

- Program Performance Measure #1: The percentage of materials used by Special Education Parent Information Centers Program projects deemed to be of high quality by an independent review panel of experts qualified to review the substantive content of the products or services.
- Program Performance Measure #2: The percentage of Special Education Parent Information Centers products and services deemed to be of high relevance to educational and early intervention policy or practice by an independent review panel of experts qualified to review the substantive content of the products or services.
- Program Performance Measure #3: The percentage of all Special Education Parent Information Centers products and services deemed by an independent review panel of qualified experts to be useful to improve educational or early intervention policy or practice.
- Program Performance Measure #4: An index of the Federal cost per unit of output provided by the Special Education Parent Information Centers.

The following measures are collected through a survey of parent centers, as part of the CPIR data collection referenced in this notice.

- Long-term Program Performance Measure #1: Parents served by Special Education Parent Information Centers investments will be knowledgeable about their IDEA rights and responsibilities.
- Long-term Program Performance Measure #2: Parents served by the Special Education Parent Information Centers will be able to work with schools and service providers effectively in meeting the needs of their children.

The measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in its annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2023–00535 Filed 1–11–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–53–000.
Applicants: Pike Solar, LLC.
Description: Pike Solar, LLC. submits Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 1/6/23.
Accession Number: 20230106–5091.
Comment Date: 5 p.m. ET 1/27/23.

Docket Numbers: EG23–54–000.
Applicants: Black Mesa Energy, LLC.
Description: Black Mesa Energy, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 1/6/23.
Accession Number: 20230106–5095.
Comment Date: 5 p.m. ET 1/27/23.

Docket Numbers: EG23–55–000.
Applicants: Wildflower Solar, LLC.
Description: Wildflower Solar, LLC. submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 1/6/23.
Accession Number: 20230106–5099.
Comment Date: 5 p.m. ET 1/27/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1863–014; ER18–1534–011; ER22–2706–002; ER13–752–018; ER21–1879–005; ER10–1852–073; ER10–1857–020; ER10–1899–019; ER10–1932–020; ER10–1935–021; ER13–2147–007; ER22–1553–001; ER15–2601–011; ER22–1454–002; ER14–1630–015; ER18–1535–010; ER11–4462–073; ER17–838–048; ER10–1951–051; ER17–1774–009; ER10–1973–019; ER10–1974–030; ER21–183–006; ER20–2012–006; ER21–2641–005; ER20–2153–008; ER21–744–005.
Applicants: Wallingford Renewable Energy LLC, Sanford Airport Solar, LLC, Quinebaug Solar, LLC, Orbit Bloom Energy, LLC, Nutmeg Solar, LLC, Northeast Energy Associates, L.P., NextEra Energy Seabrook, LLC, NextEra Energy Bluff Point, LLC, NextEra Energy Services Massachusetts, L.L.C., NextEra Energy Marketing, LLC, NEPM II, LLC, Montauk Energy Storage Center, LLC, Mantua Creek Solar, LLC, LI Solar Generation, LLC, Green Mountain Storage, LLC, Granite Reliable Power, LLC, Frontier Utilities New York LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC, FPL Energy Illinois Wind, LLC, FPL Energy Cape, LLC, Florida Power & Light Company, Farmington Solar, LLC, Energy Storage Holdings, LLC, Eight Point Wind, LLC, East Hampton Energy Storage Center, LLC, Coolidge Solar I, LLC.
Description: Triennial Market Power Analysis for Northeast Region of Coolidge Solar I, LLC, et al.
Filed Date: 1/3/23.
Accession Number: 20230103–5528.
Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–495–001.
Applicants: AES CE Solutions, LLC.
Description: Tariff Amendment: AES CE Solutions, LLC MBR Tariff to be effective 11/24/2022.
Filed Date: 1/5/23.
Accession Number: 20230105–5148.
Comment Date: 5 p.m. ET 1/26/23.

Docket Numbers: ER23–778–000.
Applicants: Avista Corporation.
Description: Petition for Limited Waiver of Avista Corporation.
Filed Date: 1/5/23.
Accession Number: 20230105–5101.
Comment Date: 5 p.m. ET 1/17/23.

Docket Numbers: ER23–780–000.
Applicants: Thousand Island Solar LLC.
Description: Thousand Island Solar LLC submits a Petition for Limited, Prospective Tariff Waiver with Expedited Action of the requirement in Section 25.6.2.3.1 of Attachment S of the NYISO OATT.
Filed Date: 1/5/23.
Accession Number: 20230105–5181.
Comment Date: 5 p.m. ET 1/13/23.

Docket Numbers: ER23–781–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, SA No. 6748; Queue No. AB2–040 to be effective 12/8/2022.
Filed Date: 1/6/23.
Accession Number: 20230106–5005.
Comment Date: 5 p.m. ET 1/27/23.

Docket Numbers: ER23–782–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6760; Queue No. AF1–134 to be effective 12/7/2022.
Filed Date: 1/6/23.
Accession Number: 20230106–5019.
Comment Date: 5 p.m. ET 1/27/23.

Docket Numbers: ER23–783–000.
Applicants: Barrett Hempstead Battery Storage, LLC, Holtsville Brookhaven Battery Storage, LLC, Canal Southampton Battery Storage, LLC, Edwards Calverton Battery Storage, LLC.
Description: Rhynland Companies Request for a Limited Prospective Waiver of the Requirement in Section 25.6.2.3.1 of Attachment S of the New York Independent System Operator Inc.
Filed Date: 1/3/23.
Accession Number: 20230103–5530.
Comment Date: 5 p.m. ET 1/13/23.

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: January 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00516 Filed 1–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–346–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2023–01–05 Negotiated Rate Agreements to be effective 1/5/2023.
Filed Date: 1/5/23.
Accession Number: 20230105–5082.
Comment Date: 5 p.m. ET 1/17/23.

Docket Numbers: RP23–347–000.
Applicants: LA Storage, LLC.
Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreements 1.5.2023 to be effective 1/6/2023.
Filed Date: 1/5/23.
Accession Number: 20230105–5126.
Comment Date: 5 p.m. ET 1/17/23.

Docket Numbers: RP23–348–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: PAL NRA KM Gas Mrktg SP380202 & Wells Fargo SP380244 to be effective 2/1/2023.
Filed Date: 1/6/23.
Accession Number: 20230106–5033.
Comment Date: 5 p.m. ET 1/18/23.

Docket Numbers: RP23–349–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Mieco 2023) to be effective 1/7/2023.
Filed Date: 1/6/23.
Accession Number: 20230106–5069.
Comment Date: 5 p.m. ET 1/18/23.

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: January 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00514 Filed 1–11–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2022–0971; FRL–10181–01–OLEM]

Response To Petition To Classify Discarded Polyvinyl Chloride as RCRA Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition response.

SUMMARY: The Environmental Protection Agency (EPA) is responding to a rulemaking petition from the Center for Biological Diversity requesting that discarded polyvinyl chloride be listed as a hazardous waste under the Resource Conservation and Recovery Act. After careful consideration, the Agency is tentatively denying the petition for the reasons discussed in this document. The Agency is also soliciting public comment on this tentative denial.

DATES: Comments must be received on or before February 13, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2022–0971, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Lowrey, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, (5304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–566–1015; email address: *lowrey.daniel@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Public Participation

A. Does this action apply to me?

The Agency is not proposing any regulatory changes at this time. Entities that may be interested in this tentative denial of the rulemaking petition include any facility that manufactures, uses, or generates as waste any materials containing polyvinyl chloride (PVC) or its components. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2022–0971, at *https://www.regulations.gov* (our preferred method), or the other

methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. General Information

A. List of Abbreviations and Acronyms

APA Administrative Procedure Act
CAS Chemical Abstract Services
CBD Center for Biological Diversity
BBP Butyl benzyl phthalate
DBP Dibutyl phthalate
DEP Diethyl phthalate
DEHP Diethylhexyl phthalate
DIDP Diisodecyl phthalate
DINP Diisononyl phthalate
DMP Dimethyl phthalate
DnOP Di-n-octyl phthalate
EPA Environmental Protection Agency
g grams
kg kilogram
L liter
mg milligram
NSF/ANSI Approved American National Standard
ppm parts per million
PVC Polyvinyl chloride
RCRA Resource Conservation and Recovery Act
TCLP Toxicity characteristic leaching procedure
wt% percent by weight

B. What action is the EPA taking?

The EPA is providing notice of and requesting comment on its tentative denial of CBD's 2014 rulemaking petition concerning the regulation of discarded polyvinyl chloride (PVC) and associated chemical additives under the Resource Conservation and Recovery Act (RCRA). With this action, the Agency is publishing its evaluation of the petition and supporting materials and requesting public comment on the tentative denial.

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

On July 24, 2014, the Center for Biological Diversity (CBD) petitioned the EPA to list discarded PVC as a hazardous waste under RCRA (''Petition''). The Agency is responding to this petition for rulemaking pursuant to 42 U.S.C. 6903, 6921 and 6974, and implementing regulation 40 CFR part 260.21. Authority for the identification and listing of hazardous wastes is granted pursuant to 42 U.S.C. 6903 and 6921, and implementing regulations 40 CFR parts 260 and 261.

D. What are the incremental costs and benefits of this action?

As this action proposes no regulatory changes, this action will have neither incremental costs nor benefits.

III. Background

A. Background on Polyvinyl Chloride and How it Is Regulated Under RCRA

PVC is one of the most common plastics, used in a variety of applications—primarily in the construction industry, but also in packaging and consumer goods (OECD 2022).

PVC is formed from the polymerization of vinyl chloride monomer and additives. Typical additives include plasticizers that make the PVC more flexible and stabilizers that limit degradation from sources such as oxygen, heat, light, and flame. Currently, discarded PVC may be classified as hazardous waste under RCRA if it leaches specified toxic constituents in excess of the toxicity characteristic leaching procedure (TCLP) regulatory limit for any contaminant (identified by a hazardous waste ''D'' number) listed in Table 1 of 40 CFR 261.24. PVC may contain RCRA hazardous constituents such as vinyl chloride monomer (toxicity characteristic level of 0.2 milligrams per liter (mg/L)) as well as certain metals like barium, cadmium, and lead. Compounds listed on appendix VIII to 40 CFR part 261, which also includes all compounds that have D- and/or U-listed numbers, are hazardous constituents. ''U'' number wastes listed in 40 CFR 261.33 are substances that are hazardous wastes when they are discarded commercial chemical products, off-specification species, container residues, and spill residues thereof. Waste containing hazardous constituents is not automatically regulated as hazardous waste.

In the United States, there are no mandatory standards limiting residual vinyl chloride in domestically manufactured or imported PVC. However, some product standards apply to PVC products, such as NSF/ANSI 14 and 61 for plastic pipes. These standards apply to the leaching of vinyl chloride monomer into water carried by pipes, and do not directly limit the amount of vinyl chloride monomer that may be present in the PVC product. Vinyl chloride monomer limits in drinking water are found in 40 CFR 141 Appendix A to Subpart O, with a Traditional MCL of 0.002 mg/L.

A 2000 survey of American vinyl producers found average concentrations of residual vinyl chloride monomer to be between 0.52 and 1.45 mg/kg, and cites industry practice that PVC with residual vinyl chloride of less than 3.2 mg/kg is suitable for pipes that need to meet the leaching standards for drinking water (Borelli et al. 2005). Methods for evaluating residual vinyl chloride monomer in PVC are found in 40 CFR 61 Appendix B (Methods 107, 107A).

All PVC contains stabilizers. Some PVC contains stabilizers containing RCRA hazardous metals such as barium (D005), cadmium (D006), and/or lead (D008) (toxicity characteristic levels of 100 mg/L, 1 mg/L, and 5 mg/L, respectively). Other PVC contains stabilizers based on calcium, zinc, and/or tin, which are not regulated as RCRA hazardous constituents (Hahladakis et al. 2018; European Commission 2022).

PVC may contain plasticizers, with the concentration of plasticizers varying widely based on the desired properties of the final material. Rigid forms of PVC contain little to no plasticizers while more flexible forms require the addition of more plasticizers. Common plasticizers include but are not limited to: di(2-ethylhexyl) phthalate (DEHP, CAS 117–81–7, U028), dibutyl phthalate (DBP, CAS 84–74–2, U069), diethyl phthalate (DEP, CAS 84–66–2, U088), dimethyl phthalate (DMP, CAS 131–11–3, U102), di-n-octylphthalate (DnOP, CAS 117–84–0, U107), and benzyl butyl phthalate (BBP, CAS 85–68–7, on Appendix VIII only) (Carlos, de Jager, and Begley 2018; Hahladakis et al. 2018, 185; Czogała, Pankalla, and Turczyn 2021). Common plasticizers that are not RCRA hazardous constituents include adipates, trimellitates, and other phthalates such as diisononyl phthalate (DINP, CAS 28553–12–0) and diisodecyl phthalate (DIDP, CAS 28761–40–0) (Carlos, de Jager, and Begley 2018; Hahladakis et al. 2018; Czogała, et al 2021).

Typically, plasticizers constitute from zero up to about 50 percent of the product by weight, although higher concentrations have been reported (Carlos, de Jager, and Begley 2018;

Hahladakis et al. 2018; Kim et al. 2020; European Commission 2022).

It is difficult to determine the proportion of PVC products that contain plasticizers because PVC manufacturers and PVC product manufacturers are not generally required to report this information. Voluntary data from 2000 indicates about two thirds of PVC is of rigid grades that do not contain significant amounts of plasticizers (Borelli et al. 2005). In the United States, concentrations of certain phthalates are prohibited in some children's products (16 CFR 1307), but no single standard covers all PVC.

B. Summary of the Petitioner's Requested Changes

The EPA has been petitioned to ''promulgate regulations governing the safe treatment, storage and disposal of PVC, vinyl chloride and associated dialkyl- and alkylarylesters of 1,2-benzenedicarboxylic acid, commonly known as phthalate plasticizers.''

CBD requests that discarded PVC be listed as a hazardous waste, which would require a narrative listing of discarded PVC from non-specific sources be added to the ''F'' list under 40 CFR 261.31, the requirements for which are specified in 40 CFR 261.11.

C. How is the EPA addressing discarded PVC?

The EPA regulates the management of solid waste, including discarded plastics such as PVC, under RCRA. RCRA sets forth different standards for different types of waste, but in general prohibits open dumping and requires that landfills have structures and procedures to prevent release of waste.

The EPA Strategic Plan of 2022–2026 (U.S. EPA 2022) sets forth priorities to reduce waste and prevent environmental contamination (Objective 6.2) including ''EPA will administer grant programs to improve Tribal, state, and local solid waste management programs and infrastructure and education and outreach on waste prevention. EPA also will address land-based contributions to the mismanagement of post-consumer materials and plastic waste.'' Further information about the management of discarded plastic, including discarded PVC, can be found at *https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/advancing-sustainable-materials-management.*

The EPA Strategic Plan also sets priorities to protect and restore waterbodies and watersheds (Objective 5.2) including ''EPA also will engage in both domestic and international partnerships to support trash pollution prevention programs, recycling efforts in rural and suburban communities, and waterfront revitalization.'' and ''Implement programs to prevent or reduce nonpoint source pollution, including nutrients and plastic pollution.'' Further information about the EPA's actions on plastic pollution in bodies of water, including marine plastic pollution as directed by the Save Our Seas 2.0 Act of 2020 (Pub. L. 116–224) signed into law in December 2020, can be found at *https://www.epa.gov/trash-free-waters.*

IV. Reasons for the EPA's Tentative Denial of the Petition

A. Petition Does Not Adequately Support Regulation of Discarded PVC Under RCRA

The Petition does not provide sufficient evidence to suggest that listing discarded PVC as a hazardous waste would have a meaningful impact, if any, on reducing exposure to phthalates, including phthalates used as plasticizers in some PVC products. The rulemaking the petition is seeking under RCRA is, by definition, limited to hazards that present a substantial present or potential hazard to human health or the environment when solid waste is improperly treated, stored, transported or disposed of, or otherwise managed (40 CFR 261.11), which does not appear to correspond to the studies or data cited in the petition. As a result, the information provided about potential exposures during use of PVC is not relevant.

The petition identifies three primary potential harms, all related to phthalate plasticizers, that are related to disposal: (1) Environmental exposure from marine litter; (2) fugitive leachate from poorly lined landfills; and (3) atmospheric exposure from incineration. However, the petition does not identify any cases or situations where hazardous exposure to phthalate plasticizers results from discarded PVC under current waste management practices.

First, RCRA already prohibits open dumping of any solid waste, which includes marine plastic litter (40 CFR 257.1 through 257.4). Classification of PVC as hazardous waste under RCRA would not introduce new controls to prevent marine litter.

Second, RCRA already requires that landfills control both blowing litter and leachate (40 CFR 258.20 through 258.29). Classification of discarded PVC as hazardous waste, *i.e.,* requiring disposal at a hazardous waste facility, would not change the types of controls required for existing landfills containing discarded PVC.

Third, regarding incineration, RCRA provides that air emissions from thermal processing of municipal-type solid waste are governed by the Clean Air Act (40 CFR 240.205). Standards for air emissions of incineration are not regulated by RCRA. Classification of discarded PVC as hazardous waste could impose additional requirements for incineration facilities (40 CFR 264.340 through 264.351), but it is not clear whether such requirements would reduce phthalate emissions.

Fourth, the Petition does not provide evidence for the release of hazardous constituents from discarded PVC, such as the leaching of plasticizers listed on Appendix VIII of 40 CFR part 261, that would require management as a hazardous waste as opposed to non-hazardous solid waste.

B. The EPA Has Higher Priorities for Limited Available Resources

In addition to the reasons provided above, based on the information presented in the Petition, the resources that the EPA would have to allocate to list PVC as a hazardous waste are unwarranted and would preclude the EPA from pursuing more pressing rulemakings, implementation, and reviews with respect to currently identified hazards under RCRA.

Listing hazardous wastes is a resource-intensive process. The EPA must carefully consider the eleven regulatory factors in 40 CFR 261.11(a)(3). While the Petition discusses each of these factors, it often conflates exposure from the use of PVC (and specifically phthalate constituents in PVC) with potential hazards from the treatment storage and disposal of PVC. Moreover, the EPA would need to conduct extensive research to understand the scope and impact of the proposed ruling, including a research survey of all potentially impacted industries and facilities. Indeed, the last rulemaking that led to a new hazardous waste listing in 2002 (Paint) required more than 2 full-time equivalent (FTE) staff for 5 years. In addition, funding to maintain and advance RCRA regulations has been flat or reduced for more than 20 years. By comparison, the number of FTE for the entire hazardous waste listing program in RCRA is currently 1.5. Because of the scope and required analysis, the EPA estimates that the resources required to propose listing discarded PVC as a hazardous waste would require more than 2 FTE over the course of 5 years. Meanwhile, OLEM is currently considering more than 20 petitions, including more than 10

regarding RCRA (*https://www.epa.gov/petitions/petitions-office-land-and-emergency-management*), and is also engaged in rulemaking. Acting on the proposed listing of discarded PVC as a hazardous waste would delay rulemakings that address hazards specifically identified by the EPA where regulating the treatment, storage, transport, or disposal of the hazard would meaningfully improve public health and the environment.

Agencies are generally given significant discretion in setting priorities and determining where the limited resources will be devoted. The Petition does not present evidence that discarded PVC presents a substantial present or potential hazard to human health or the environment when solid waste is improperly treated, stored, transported or disposed of, or otherwise managed. Accordingly, at this time and considering the constraints discussed above, the EPA will not divert limited resources from priority actions for a rulemaking to list discarded PVC as a hazardous waste.

V. References

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

1. CBD. Petition for Rulemaking Pursuant to section 7004(a) of the Resource Conservation and Recovery Act, 42 U.S.C. 6974(A), and section 21 of the Toxic Substances Control Act, 15 U.S.C. 2620, Concerning the Regulation of Discarded Polyvinyl Chloride and Associated Chemical Additives. July 29, 2014.
2. Borelli, F., de la Cruz, P., and Paradis, R. 2005. Residual Vinyl Chloride Levels in U.S. PVC Resins and Products: Historical Perspective and Update. Journal of Vinyl & Additive Technology, June 2005 65–69. *https://doi.org/10.1002/vnl.20040.*
3. Carlos, K., de Jager, L., and Begley, T. 2018. Investigation of the primary plasticisers present in polyvinyl chloride (PVC) products currently authorized as food contact materials. Food Addit. Contam. Part A Chem. Anal. Control Expo. Risk Assess., 35(6):1214–1222. *https://doi.org/10.1080/19440049.2018.1447695.*
4. Czogała, J., Pankalla, E., and Turczyn, R. 2021. Recent Attempts in the Design of Efficient PVC Plasticizers with Reduced Migration. Materials (Basel, Switzerland) 14(4): 844. *https://doi.org/10.3390/ma14040844.*
5. European Commission, Directorate-General for Environment. 2022. The use of PVC (poly vinyl chloride) in the context of a non-toxic environment: final report. Publications Office of the European Union. *https://data.europa.eu/doi/10.2779/375357.*
6. Hahladakis, J., Velis, C., Weber, R., Iacovidou, E., and Purnell, P. 2018. An overview of chemical additives present in plastics: Migration, release, fate and environmental impact during their use, disposal and recycling. Journal of Hazardous Materials 344, 179–199. *https://doi.org/10.1016/j.jhazmat.2017.10.014.*
7. Kim, D.Y.; Chun, S.-H.; Jung, Y.; Mohamed, D.F.M.S.; Kim, H.-S.; Kang, D.-Y.; An, J.-W.; Park, S.-Y.; Kwon, H.-W.; Kwon, J.-H.. 2020. Phthalate Plasticizers in Children's Products and Estimation of Exposure: Importance of Migration Rate. International Journal of Environmental Research and Public Health, 202017(22) 8582. *https://doi.org/10.3390/ijerph17228582.*
8. NSF/ANSI 14: Plastics Piping System Components and Related Materials.
9. NSF/ANSI 61: Drinking water system components—Health Effects.
10. Organisation for Economic Cooperation and Development (OECD). 2022. Global Plastics Outlook: Policy Scenarios to 2060. OECD Publishing, Paris. *https://doi.org/10.1787/aa1edf33-en.*
11. United States Environmental Protection Agency. 2020. Advancing Sustainable Materials Management: Facts and Figures Report, December 2020. *https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/advancing-sustainable-materials-management.*
12. United States Environmental Protection Agency. 2022. FY 2022–2026 EPA Strategic Plan. Washington, DC: U.S. Environmental Protection Agency, March 2022. Periodical. *https://www.epa.gov/system/files/documents/2022-03/fy-2022-2026-epa-strategic-plan.pdf.*

Barry N. Breen,

Acting Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2023–00478 Filed 1–11–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10556–01–OA]

Public Meetings of the Science Advisory Board Hexavalent Chromium Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces two public meetings of the Science Advisory Board Hexavalent Chromium Review Panel. The purpose of the meetings is to discuss charge questions, listen to agency presentations, listen to public comments and peer review the EPA's draft IRIS Toxicological Review of Hexavalent Chromium.

DATES: The public meeting for the Science Advisory Board Hexavalent Chromium Review Panel to receive the briefing from EPA will be held on February 15, 2023, from 12 noon to 5 p.m. The public meeting for the Science Advisory Board Hexavalent Chromium Review Panel to peer review the documents will be held on March 29–31, 2023, in Washington, DC. All times listed are in Eastern Standard Time.

ADDRESSES: The meeting on February 15, 2023, will be conducted virtually. Please refer to the SAB website at *https://sab.epa.gov* for information on how to attend the meeting. The March 29–31, 2023, meeting(s) will be conducted in person at Renaissance Arlington Capital View Hotel, located at 2800 S Potomac Ave., Arlington, VA 22202, and virtually. Please refer to the SAB website at *https://sab.epa.gov* for information on how to attend the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning this notice may contact Dr. Suhair Shallal, Designated Federal Officer (DFO), via telephone (202) 564–2057, or email at *shallal.suhair@epa.gov.* General information about the SAB, as well as any updates concerning the meetings announced in this notice can be found on the SAB website at *https://sab.epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the EPA Administrator on the scientific and technical basis for agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., app. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the Science Advisory Board Hexavalent Chromium Review Panel will hold two public meeting(s) to discuss charge questions, listen to

agency presentations, listen to public comments and peer review the EPA's draft IRIS Toxicological Review of Hexavalent Chromium.

Availability of Meeting Materials: All meeting materials, including the agenda will be available on the SAB web page at *https://sab.epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the committee's charge or meeting materials. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instruction below to submit comments.

Oral Statements: In general, individuals or groups requesting an oral presentation at a meeting conducted virtually will be limited to three minutes and individuals or groups requesting an oral presentation at an in-person meeting will be limited to five minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Persons interested in providing oral statements should contact the DFO, in writing (preferably via email) at the contact information noted above by February 8, 2023, to be placed on the list of registered speakers for the February 15, 2023 meeting and by March 22, 2023, to be placed on the list of registered speakers for the March 29–31, 2023 meeting.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by SAB members, statements should be submitted to the DFO by February 8, 2023, for consideration at the February 15, 2023 meeting and March 22, 2023, for consideration at the March 29–31, 2023 meeting. Written statements should be supplied to the DFO at the contact information above via email. Submitters are requested to provide a signed and unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact the DFO, at the contact information noted above, preferably at least ten days prior to the meeting(s), to give the EPA as much time as possible to process your request.

V. Khanna Johnston,

Deputy Director, Science Advisory Board Staff Office.

[FR Doc. 2023–00524 Filed 1–11–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2022–0981; FRL–10417–01–OECA]

Public Comment on EPA's National Enforcement and Compliance Initiatives for Fiscal Years 2024–2027

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is soliciting public comment and recommendations on the National Enforcement and Compliance Initiatives (NECIs) for fiscal years 2024–2027 (formerly called ''National Compliance Initiatives''). The EPA focuses enforcement and compliance resources on the most serious and widespread environmental problems by developing and implementing national program initiatives. The initiatives currently underway, modifications to these existing initiatives, as well as potential new initiatives under consideration are described in the **SUPPLEMENTARY INFORMATION** section of this document, with additional descriptions and data on the current initiatives available on our website: *http://www.epa.gov/enforcement/national-compliance-initiatives.*

DATES: Comments must be received on or before March 13, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OECA–2022–0981 by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OECA, Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michele McKeever, Chief, National Planning and Measures Branch, Office of Enforcement and Compliance Assurance, Mail Code: M2221A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–3688; fax number: 202–564–0027; email address: *mckeever.michele@epa.gov.*

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

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2022–0981, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI),

or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. What are EPA's National Enforcement and Compliance Initiatives?

EPA selects national initiatives every four years to focus resources on serious and widespread environmental problems where federal enforcement can make a difference. The primary objective of these initiatives is to protect human health and the environment by holding polluters accountable and compelling regulated entities to return to compliance. While formal enforcement remains the key tool to address serious environmental problems and significant violations, as well as create general deterrence, EPA also uses a variety of compliance assurance tools to achieve this objective. To reflect this comprehensive approach, EPA has changed the name from National Compliance Initiatives to National Enforcement and Compliance Initiatives (NECIs).

In selecting initiatives for the FY 2024–2027 cycle, EPA will use the following three criteria to evaluate the existing and proposed new initiatives: (1) the need to address serious and widespread environmental issues and significant violations impacting human health and the environment, particularly in overburdened and vulnerable communities; (2) areas where federal enforcement can help ensure national consistency, promote a level playing field, and achieve compliance; and (3) alignment with the Agency's Strategic Plan.

EPA aims to align all existing and proposed NECIs with two overarching Strategic Plan goals: Goal 1: Tackle the Climate Crisis and Goal 2: Take Decisive Action to Advance Environmental Justice. Specifically, EPA has incorporated climate resiliency considerations where appropriate in the current initiatives, and as discussed below, we are proposing a new NECI that would focus specifically on mitigating climate change by reducing non-compliance with applicable requirements, such as the Clean Air Act and American Innovation and Manufacturing Act. Promoting environmental justice, on the other hand, is not specific to any one program or statute; it is a core principle of all of our enforcement and compliance work. Therefore, rather than proposing a separate Environmental Justice NECI, we have fully incorporated environmental justice considerations into every existing and proposed NECI as we seek to reduce environmental harm in vulnerable and overburdened communities.

III. On what is the EPA requesting comment?

The EPA's Office of Enforcement and Compliance Assurance is soliciting public comment and recommendations on the NECIs to be undertaken by EPA over the four-year period of fiscal years 2024–2027. Specifically, EPA is collecting comment on which of the current national initiatives should continue into the FY 2024–2027 cycle, as is or modified, or be returned to the standard or ''core'' enforcement program at the end of FY 2023. Initiatives returned to the core program will continue to be addressed by enforcement and compliance assurance measures as appropriate. In addition, the EPA specifically invites comment on two potential new NECIs and two other areas under consideration for further evaluation as potential NECIs. The public also is invited to propose other areas for consideration as a NECI. This notice is an agency planning document and does not impose any legally binding requirements on any outside parties.

IV. What are the current FY 2020–2023 National Compliance Initiatives?

EPA has six initiatives underway from the FY 2020–2023 cycle. These initiatives are:

Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants. This initiative, started in FY 2020, addresses the adverse health and environmental effects from exceedances of the National Ambient Air Quality Standards (NAAQS) for ozone to which sources of volatile organic compounds (VOCs) contribute, as well as health impacts on communities from emissions of hazardous air pollutants (HAPs). People living in non-attainment areas or in communities that are near sources of HAPs may face significant risks to their health and environment. Sources emitting VOCs may contribute to non-attainment or may adversely affect the attainment status of an area. VOCs are a key component in the formation of ground-level ozone (a constituent of photochemical smog) and secondary organic aerosols, both of which may impact ecosystems and can cause adverse health effects. HAPs are pollutants that are known or suspected to cause cancer or other serious health effects.

Stopping Aftermarket Defeat Devices for Vehicles and Engines. This initiative, begun in FY 2020, focuses on stopping the manufacture, sale, and installation of defeat devices on vehicles and engines used on public roads as well as on nonroad vehicles and engines. Numerous companies manufacture and sell hardware and software specifically designed to defeat required emissions controls on vehicles and engines. Illegally-modified vehicles and engines contribute substantial excess pollution that harms public health and impedes efforts to attain air quality standards. EPA estimates that emissions increase significantly when emissions controls are fully deleted. For example, if the emissions controls are deleted from a diesel truck, NO_X increases by ~310%, NMHC increases by ~1,140%, CO increases by ~120% and PM increases by ~40%.

Reducing Hazardous Air Emissions from Hazardous Waste Facilities. The Agency began this initiative in 2017 with the goal of ensuring that treatment, storage, and disposal facilities and large quantity generators, many of which are in vulnerable or overburdened communities, comply with Resource Conservation and Recovery Act requirements to control organic air emissions. Widespread air emissions are associated with the improper management of hazardous waste. These emissions can include constituents known or suspected to cause cancer, birth defects, or that seriously impact the environment. In addition, leaks from these facilities can contribute to nonattainment with the NAAQS for ozone.

Reducing Risks of Accidental Releases at Industrial and Chemical Facilities. This initiative, which began in 2016, seeks to decrease the likelihood of chemical accidents and ensure that thousands of facilities nationwide, many of which are in vulnerable or overburdened communities, comply with section 112(r) of the CAA and the Chemical Accident Prevention regulations, also known as the Risk Management Program. EPA regulates facilities that manufacture, use, store, or otherwise handle a listed chemical in a process at or above an established

threshold quantity. A broader statutory obligation under CAA section 112(r)(1), the General Duty Clause (GDC), applies to all stationary sources with regulated substances or other extremely hazardous substances, regardless of the quantity of chemical involved. Catastrophic accidents at these facilities—historically about 150 each year—can result in fatalities and serious injuries, evacuations, and harm to human health and the environment.

Reducing Significant Non-Compliance in the National Pollutant Discharge Elimination System (NPDES) Program. This initiative, which began in FY 2020, undertaken in collaboration with the NPDES states, seeks to reduce the number of facilities in significant non-compliance (SNC) with their NPDES permits. Compliance with NPDES permits is critical to protecting our nation's waters. Improving surface water quality protects public health and reduces potential pollution impacts on drinking water supplies, aquatic life and public enjoyment of fishable and swimmable waters. SNC-level violations can include effluent limit exceedances, failure to submit required monitoring reports, and failure to meet schedule requirements. These SNC-level effluent violations pose a significant threat to public health and the environment, resulting in higher and more harmful concentrations of bacteria, disease-causing pathogens, and high amounts of other pollutants, such as sediment, oil and grease, chemicals, nutrients, and metals.

Reducing Non-Compliance with Drinking Water Standards at Community Water Systems. This initiative, which began in FY 2020, seeks to ensure that the approximately 50,000 regulated drinking water systems that serve water to residents year-round, referred to as Community Water Systems (CWSs), comply with the Safe Drinking Water Act. In FY 2018, 40% of the nation's CWSs violated at least one drinking water standard. In addition, there were monitoring and reporting violations at more than 30% of CWSs, and health-based violations at 7% of CWSs. The EPA works with states, tribes, territories, local governments, and the regulated community to ensure delivery of safe water to communities by carrying out shared responsibilities and creating a more effective drinking water enforcement program nationally.

Additional information on these initiatives is available online at: *http://www.epa.gov/enforcement/national-compliance-initiatives.*

V. What are the potential initiatives under consideration for FY 2024–2027?

A. Existing Initiatives

For the six current initiatives from the FY 2020–2023 cycle, EPA is soliciting input on whether we should continue, modify, or conclude the initiative and return it to the ''core'' or standard enforcement program. As noted above, initiatives returned to the core enforcement program will continue to be addressed by the Agency even though they are no longer national initiatives. The EPA is planning to continue the following four existing initiatives into the FY 2024–2027 cycle:

1. *Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants.* The EPA plans to continue this initiative for the FY 2024–2027 cycle, with a focus on processes for which widespread noncompliance continues to be identified: flares, storage tanks, wastewater treatment, and incineration/combustion. In addition, continuing this initiative can further the EPA Strategic Plan goals of advancing environmental justice and addressing climate change by prioritizing inspections at sources impacting vulnerable or pollution-burdened communities and by achieving pollutant reductions with the co-benefit of reducing emissions of methane which contributes to climate change. For example, FY 2021 enforcement actions resulted in a reduction of approximately 6.7 million pounds of VOCs and HAPs and over 15.7 million pounds of methane reduced.

2. *Reducing Risks of Accidental Releases at Industrial and Chemical Facilities.* The EPA plans to continue this initiative for the FY 2024–2027 cycle because EPA has found that many regulated facilities still are not adequately managing the risks they pose or ensuring the safety of their facilities to protect surrounding communities. The EPA plans to continue this initiative with a focus on enforcement responses to catastrophic accidents and integrating the Strategic Plan goals of advancing environmental justice and addressing climate change by increasing inspections in vulnerable and overburdened areas, such as fenceline communities, and considering vulnerability of facilities to natural hazards and climate change as criteria when selecting facilities for inspection. In addition, the GDC requirements cannot be delegated to states, tribes, or territories, and while RMP regulations may be delegated, EPA remains the sole enforcement authority in all but nine states.

3. *Reducing Significant Non-Compliance in the National Pollutant Discharge Elimination System (NPDES) Program.* EPA plans to continue this initiative for the FY 2024–2027 cycle, with a focus on assuring the worst effluent violators are addressed and on reducing the effluent violation component of the SNC rate (during the FY 2020–2023 cycle of this initiative, EPA and the states together cut the national SNC rate in half, to 9.0%, focused on reducing missing data and improving data quality; however, a large number of facilities continue to have effluent violations). While focusing on addressing the worst effluent SNC violators, the initiative would be expanded to include municipal permittees that are covered under a general permit, as unlawful discharges from facilities with a general permit can cause significant adverse impacts to communities, particularly overburdened communities. Approximately 30% of facilities with SNC-level effluent violations are located in communities with potential environmental justice concerns. In addition, this initiative proposes to seek remedies in enforcement actions to advance climate resiliency, where appropriate. Therefore, this initiative can further the Strategic Plan goals of advancing environmental justice and addressing climate change. There are approximately 46,000 major and minor individually NPDES-permitted facilities in the country. Providing coordinated, national leadership under a national initiative enables EPA and the states to work together to achieve progress on reducing SNC-level effluent violations.

4. *Reducing Non-Compliance with Drinking Water Standards at Community Water Systems.* EPA plans to continue this initiative for the FY 2024–2027 cycle because while EPA, working with the states, has made considerable progress in improving Safe Drinking Water Act (SDWA) compliance, further improvement in compliance is needed. In FY 2022, EPA conducted 140 inspections at community water systems serving more than 3 million users. Enforcement actions by EPA and states, territories, and tribes with primacy that reduced the risks of potential drinking water violations for 900,000 people. In the last year, however, nearly 22.5 million people still consumed water provided by a CWS with at least one health-based violation. The most common health-based violations are violations of the Lead and Copper Rule, the Disinfection Byproducts Rule, and the Ground Water Rule. Therefore, the EPA plans to

continue this initiative with a focus on these rules. In addition, this initiative can further the EPA Strategic Plan goals of advancing environmental justice and addressing climate change. Specifically, opportunities to advance environmental justice are extensive as overburdened communities, including those in Indian country, often face SDWA compliance challenges. This initiative would seek to increase the number of inspections at systems serving overburdened communities and ensuring that communities know about health-based violations and steps to take to protect their health. In addition, the initiative would consider climate change resiliency by ensuring compliance with SDWA section 1433, which requires CWSs serving more than 3,300 people to develop risk and resilience assessments and emergency response plans which must include the risks posed by climate change and natural hazards on the infrastructure of the system.

The EPA proposes to return the following two current initiatives to the standard ''core'' enforcement program:

1. *Reducing Toxic Air Emissions from Hazardous Waste Facilities.* This initiative succeeded in significantly raising the visibility and awareness of the RCRA organic air emissions standards among both regulators and the regulated community. The Agency began this initiative in 2017, and has concluded 362 addressing actions, including 101 enforcement cases, and has prevented the release of over 120 million pounds of total air pollutants to the environment. Almost all of these pollutant reductions were from facilities located in overburdened communities, providing a direct environmental benefit to nearby populations. In addition to taking enforcement actions against hazardous waste Treatment, Storage, and Disposal Facilities (TSDFs) and Large Quantity Generators to compel compliance, EPA also worked with states and industry to provide training with the goal of improving compliance going forward. EPA will continue efforts to build state capacity in this program. Accordingly, the Agency proposes to return work in this area to the core program at the end of FY 2023.

2. *Stopping Aftermarket Defeat Devices for Vehicles and Engines.* Since the inception of the NCI in FY 2020, EPA has resolved approximately 130 cases, addressing over 460,000 violations. In FY 2022 alone, EPA concluded 41 cases with over $19 million in civil penalties. The Agency has made significant progress on this initiative, addressed serious violations through enforcement actions reducing pollution and improving air quality, and raised awareness of the concerns. Accordingly, the Agency proposes to return work in this area to the core program in at the end of FY 2023.

B. New NECIs

The EPA specifically invites comment on two potential new NECIs and two other areas under consideration for further evaluation as potential NECIs. As noted above, we have developed the proposed NECIs in alignment with the EPA Strategic Plan's emphasis on tackling the climate crisis and promoting environmental justice. We therefore are proposing a new NECI focused on climate change mitigation, while seeking opportunities to enhance climate resiliency in other NECIs, where appropriate. Promoting environmental justice, on the other hand, is a core element of all enforcement and compliance work and we are incorporating those considerations in every NECI—existing ones that we propose to retain as well as proposed new initiatives—as we seek to reduce public health impacts and environmental harm in vulnerable and overburdened communities.

The two potential new NECIs are described as follows:

1. *Mitigating Climate Change.* A potential climate NECI would seek to combat climate change through a focus on reducing non-compliance with the illegal import, production, use, and sale of hydrofluorocarbons (HFCs) pursuant to the American Innovation and Manufacturing Act of 2020 (AIM Act); excess emissions from sources within certain industrial sectors, including municipal solid waste landfills and oil and natural gas production facilities; as well as non-compliance with other requirements such as mobile source, fuels, and methane regulations. Climate change poses substantial risk to public health and safety, water resources, agriculture, infrastructure, and ecosystems. Addressing climate change using EPA's available compliance and enforcement tools is critical to EPA's mission of protecting human health and the environment, particularly protecting populations that may be especially vulnerable to the effects of climate change, including those in overburdened, underserved, and economically distressed communities. Although EPA has sought to incorporate climate considerations in the current initiatives, with a particular focus on climate resiliency, this NECI would focus on achieving the Agency's climate mitigation goals in order to reduce climate disruption and the increases in global temperatures that are likely to occur without enforcement of the Agency's climate mitigation regulations.

2. *Addressing PFAS Contamination.* A potential PFAS NECI would focus on implementing the commitments to action made in EPA's 2021–2024 Per- and Poly-fluoroalkyl substances (PFAS) Strategic Roadmap (*https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf*). In the Roadmap, EPA committed to holding polluters and other responsible parties accountable for their actions, ensuring that they assume responsibility for characterization and remediation efforts and prevent future releases of PFAS. Many communities and ecosystems are exposed to PFAS in drinking water, surface water, groundwater, soils, sediment, air, and through product exposures. Exposure to PFAS can lead to adverse human health effects and has been identified as an urgent public health and environmental issue facing communities across the nation. Current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to reproductive effects such as decreased fertility, developmental effects or delays in children, and increased risk of some cancers, including prostate, kidney, and testicular cancers. A PFAS NECI initially would focus on identifying the extent of PFAS exposures that pose a threat to human health and the environment and pursuing responsible parties for those exposures. Where appropriate, EPA would work with its State partners on this initiative and seek to supplement PFAS enforcement work already performed by many State regulators. To the extent that PFAS cleanup efforts occur under CERCLA, EPA will develop a CERCLA enforcement discretion and contribution protection settlement policy regarding PFAS contamination. For example, EPA intends to focus enforcement efforts on PFAS manufacturers whose actions result in the release of significant amounts of PFAS into the environment, and on federal facilities that may be a significant source of PFAS contamination. EPA does not intend to pursue entities where equitable factors do not support assigning CERCLA responsibility.

The EPA also seeks comment on two additional areas for further consideration for possible development as NECIs. Both topics are significant enforcement priorities for the Agency but resource constraints limit the number of NECIs that the Agency can pursue:

1. *Reducing Exposure to Lead.* The EPA has existing efforts to tackle lead contamination in all environmental

media. Exposure to lead is one of the country's most pressing environmental and human health concerns. Americans can be exposed to lead via lead-based paint, drinking water, soil, and air emissions. Ongoing exposures to lead in the environment present a health risk to many people nationwide, especially in communities overburdened by pollution, which are disproportionately communities of color and low-income communities. Some of these exposures result from non-compliance with laws designed to reduce or eliminate exposure and enforcement can play a key role in addressing this non-compliance. EPA's Lead Strategy (*https://www.epa.gov/lead/final-strategy-reduce-lead-exposures-and-disparities-us-communities,* at Objective E) sets forth a comprehensive strategy to implement its wide range of authorities to address noncompliance, obtain cleanups, deter future violations, and mitigate harm using available resources. EPA seeks comment on whether, in addition to the existing Lead strategy, we should identify our lead enforcement commitments as a new NECI.

2. *Addressing Coal Combustion Residuals (CCR).* EPA has on-going efforts to address noncompliance with RCRA regulations for the safe disposal of CCRs, commonly known as coal ash, from coal-fired power plants. There are approximately 300 CCR facilities nationwide, comprised of 772 CCR units (239 CCR landfills and 533 CCR surface impoundments). However, these facilities are not evenly distributed throughout the country; approximately 45% are located in eight states (IA, IL, KY, MI, MO, NC, and TX). Most CCR impoundments and landfills are unlined, allowing metals and other contaminants to leach into groundwater. The impact or harm to human health and environment from CCR noncompliance is significant and can occur through direct exposure to impoundment wastewater or consumption of contaminated drinking water. EPA seeks comment on the idea of a CCR-focused NECI to reduce noncompliance in this sector.

C. Public Comments

The EPA will consider all comments to these proposals as it moves forward in the decision-making process. Additionally, the public is invited to propose any other areas for consideration as NECIs. Information in support of this Notice of Public Comment is available online at: *http://www.epa.gov/enforcement/national-compliance-initiatives.*

VI. Can the deadline for comments be extended?

EPA must receive public comments on potential NECIs by March 13, 2023 in order to complete consideration of public comment, issue a selection memo, and begin development of implementation strategies prior to the beginning of the FY 2023–2027 cycle.

Lawrence E. Starfield,

Acting Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 2023–00500 Filed 1–11–23; 8:45 am]

BILLING CODE 6560–50–P

EXPORT–IMPORT BANK

[Public Notice: EIB–2023–0001]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP089454XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public the Export-Import Bank of the United States (''EXIM'') has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million. Comments received within the comment period specified below will be presented to the EXIM Board of Directors prior to final action on this Transaction.

DATES: Comments must be received on or before February 6, 2023 to be assured of consideration before final consideration of the transaction by the Board of Directors of EXIM.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2023–0001 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2023–0001 on any attached document.

SUPPLEMENTARY INFORMATION:

Reference: AP089454XX.

Purpose and Use:

Brief description of the purpose of the transaction: To support the export of U.S.-manufactured commercial aircraft to Turkiye.

Brief non-proprietary description of the anticipated use of the items being exported: To be used for passenger and cargo air transport between Turkiye and Africa, America, Europe, and Asia.

To the extent that EXIM is reasonably aware, the item(s) being exported may be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: The Boeing Company.

Obligor: Turk Hava Yollari A.O.

Guarantor(s): N/A.

Description of Items Being Exported: Boeing 787 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Authority: Section 3(c)(10) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635a(c)(10)).

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2023–00481 Filed 1–11–23; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1229; FR ID 122441]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the

information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 13, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1229.

Title: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 832 respondents and 832 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; recordkeeping and third party disclosure requirements. Wireless licensees who are required to conduct an interference study will be required to produce the study upon request and when an interference complaint occurs.

Obligation to Respond: Mandatory. The statutory authority for this information collection is contained in 47 U.S.C. in 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451 and 1452.

Total Annual Burden: 832 hours.

Total Annual Costs: $10.

Nature and Extent of Confidentiality: There is no need for confidentiality. However, applicants may request that any information supplied be withheld from public inspection, pursuant to 47 CFR 0.459 of the FCC's rules. This request must be justified pursuant to 47 CFR 0.457.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: This information collection will be submitted as an extension (no change in reporting requirement) after this 60-day comment period to the Office of Management and Budget (OMB) to obtain the three-year clearance.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–00520 Filed 1–11–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0311 and OMB 3060–1211; FR ID 122496]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before February 13, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0311.

Title: 47 CFR 76.54, Significantly Viewed Signals; Method to be followed for Special Showings.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 500 respondents, 1,274 responses.

Frequency of Response: On occasion reporting and third-party disclosure requirements.

Estimated Time per Response: 1–15 hours (average).

Total Annual Burden: 20,610 hours.

Total Annual Cost: $300,000.

Nature of Response: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 4(i) and 340 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 76.54(b) state significant viewing in a cable television or satellite community for signals not shown as significantly viewed under 47 CFR 76.54(a) or (d) may be demonstrated by an independent professional audience survey of over-the-air television homes that covers at least two weekly periods separated by at least thirty days but no more than one of which shall be a week between the months of April and September. If two surveys are taken, they shall include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level.

The information collection requirements contained in 47 CFR 76.54(c) are used to notify interested parties, including licensees or permittees of television broadcast stations, about audience surveys that are being conducted by an organization to demonstrate that a particular broadcast station is eligible for significantly viewed status under the Commission's rules. The notifications provide interested parties with an opportunity to review survey methodologies and file objections.

Lastly, 47 CFR 76.54(e) and (f), are used to notify television broadcast stations about the retransmission of significantly viewed signals by a satellite carrier into these stations' local market.

OMB Control Number: 3060–1211.

Title: Sections 96.17; 96.21; 96.23; 96.25; 96.33; 96.35; 96.39; 96.41; 96.43; 96.45; 96.51; 96.57; 96.59; 96.61; 96.63; 96.67, Commercial Operations in the 3550–3650 MHz Band.

Form Number: N/A.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents: 110,782 respondents; 226,099 responses.

Estimated Time per Response: .25 to 1 hour.

Frequency of Response: One-time and on occasion reporting requirements; other reporting requirements—as-needed basis for equipment safety certification that is no longer in use, and consistently (likely daily) responses automated via the device.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for, these collections are contained in 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 302(a), 303, 304, 307(e), and 316 of the Communications Act of 1934.

Total Annual Burden: 64,561 hours.

Total Annual Cost: $13,213,975.

Needs and Uses: The FCC adopted an Order on Reconsideration and Second Report and Order, FCC 16–55, that amends rules established in the First Report and Order, FCC 15–47, for commercial use of 150 megahertz in the 3550–3700 MHz (3.5 GHz) band and a new Citizens Broadband Radio Service, on April 28, 2016, published at 81 FR 49023 (July 26, 2016). The rule changes and information requirements contained in the First Report and Order are also approved under this Office of Management and Budget (OMB) control number and have not changed since they were last approved by OMB.

The Commission also received approval from OMB for the information collection requirements contained in FCC 16–55. The amendments contained in the Second Report and Order create additional capacity for wireless broadband by adopting a new approach to spectrum management to facilitate more intensive spectrum sharing between commercial and federal users and among multiple tiers of commercial users. The Spectrum Access System (SAS) will use the information to authorize and coordinate spectrum use for Citizen Broadband Radio Service Devices (CBSDs). The Commission will use the information to coordinate among the spectrum tiers and determine Protection Areas for Priority Access Licensees (PALs).

The following is a description of the information collection requirements for is approved under this collection:

Section 96.25(c)(1)(i) requires PALs to inform the SAS if a CBSD is no longer in use.

Section 96.25(c)(2)(i) creates a default protection contour for any CBSD at the outer limit of the PAL Protection Area, but allows a PAL to self-report a contour smaller than that established by the SAS. These rules which contain information collection requirements are designed to provide for flexible use of this spectrum, while managing three tiers of users in the band, and create a low-cost entry point for a wide array of users. The rules will encourage innovation and investment in mobile broadband use in this spectrum while protecting incumbent users. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–00522 Filed 1–11–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0816; FR ID 122477]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 13, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0816.

Title: Local Telephone Competition and Broadband Reporting, Report and Order, FCC Form 477, (WC Docket No. 19–195, WC Docket No, 11–10, FCC 19–79).

Form Number: FCC Form 477.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and State, local, or Tribal governments.

Number of Respondents and Responses: 3,400 respondents; 6,800 responses.

Estimated Time per Response: 289 hours (average).

Frequency of Response: Semi-annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 201, 218–220, 251–252, 271, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and in section 706 of the Telecommunications Act of 1996, as amended, codified in section 1302 of the Broadband Data Improvement Act, 47 U.S.C. 1302.

Total Annual Burden: 1,965,200 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will continue to allow respondents to certify on the submission interface that some subscribership data contained in that submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity making the submission. If the Commission receives a request for, or proposes to disclose such information, the respondent would be required to show, pursuant to Commission rules for withholding from public inspection information submitted to the Commission, that the information in question is entitled to confidential treatment. We will retain our current policies and procedures regarding the protection of submitted FCC Form 477 data subject to confidential treatment, including the use of only non-company specific aggregates of subscribership data in our published reports. Most of the broadband deployment data previously collected on Form 477 is publicly available on the FCC's website at *https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477.*

Needs and Uses: FCC Form 477 provides an understanding of broadband and voice subscribership, and, through its critical connection to the Broadband Data Collection, the extent of broadband availability. The understanding of broadband subscribership and availability provided by these data are the foundation of the Commission's development of appropriate broadband policies, and enable the Commission to carry out its obligation under section 706 of the Telecommunications Act of 1996, as amended, to ''determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.'' In addition, the information collected in Form 477 enhances the Commission's analysis and understanding of the extent of voice telephone services competition, which in turn supports the Commission's efforts to open all telecommunications markets to competition and to promote innovation and investment by all participants, including new entrants, as required by the Telecommunications Act of 1996.

The Commission staff uses the information to advise the Commission about the efficacy of its rules and policies adopted to implement the Telecommunications Act of 1996. The data are necessary to evaluate the status of local telecommunications competition and broadband availability. The Commission uses the data to prepare reports that help inform consumers and policy makers at the federal and state level on the availability and adoption of broadband services, as well as on developments related to competition in the voice telephone services market. The Commission also uses the data to support its analyses in a variety of rulemaking proceedings under the Communications Act, including those related to fulfilling its universal service mandate.

The Commission releases to the public the broadband availability and mobile voice availability data that it began collecting in 2014 as a result of the Order. This information is used by consumers, federal and state government agencies, analysts, and others to determine broadband service availability by provider, technology, and speed.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–00521 Filed 1–11–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; OCC Data Collection for Tribal Annual Report (OMB #0970–0430)

AGENCY: Office of Child Care, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three-year extension of the form ACF–700 Tribal Annual Report (OMB #0970–0430, Expiration date: January 31, 2023. No changes are proposed.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed

requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: On an annual basis, Tribal Lead Agencies for the Child Care and Development Fund (CCDF) are required to submit aggregate information on services provided via the CCDF Tribal Annual Report, also known as the ACF–700 report and offers the Office of Child Care (OCC) a glimpse into how CCDF program dollars are being spent. The ACF–700 report captures administrative data about the number of families and children served. The report also contains specific questions that gather programmatic information about Tribal quality activities, coordination of activities with other early childhood programs, use of funds, technical assistance needs, use of the Data Tracker software, and progress toward identified goals. The data derived from this report allows OCC to generate and analyze aggregate information, thereby giving OCC a more comprehensive understanding of Tribal program activities more easily. The data are essential for demonstrating the accomplishments of Tribal child care programs.

Respondents: Tribal Grantees receiving CCDF funding. Tribes that operate child care under Public Law 102–477 Indian Employment, Training, and Related Services Plan are exempt from the ACF–700.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
ACF–700	141 (Tribes with small allocations)	3	19	7,866	2,622
ACF–700	78 (Tribes with medium/large allocations)	3	26	6,474	2,158

Estimated Total Annual Burden Hours: 4,780.

Authority: 42 U.S.C. 9857.

John M. Sweet, Jr.,

ACF/OPRE Certifying Officer.

[FR Doc. 2023–00421 Filed 1–11–23; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Management and Budget (OMB) Expedited Review and Public Comment: Revisions to Recordkeeping To Mitigate the Spread of COVID–19 in Head Start (OMB #: 0970–0583)

AGENCY: Office of Head Start; Administration for Children and Families; Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Head Start, Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is requesting expedited review from OMB and inviting public comments on revisions to the recordkeeping requirements under *Recordkeeping to Mitigate the Spread of COVID–19 in Head Start* (OMB #: 0970–0583). A Final Rule requires grant recipients to update their program policies and procedures to include an evidence-based COVID–19 mitigation policy developed in consultation with their Health Services Advisory Committee.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described in this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be submitted by emailing *infocollection@acf.hhs.gov*. Identify all requests by the title of the information collection: Recordkeeping to Mitigate the Spread of COVID–19 in Head Start (OMB #: 0970–0583).

SUPPLEMENTARY INFORMATION:

Description: The requirement that grant recipients establish a COVID–19 mitigation policy in their program policies and procedures will go into effect 60 days following the publication of the Final Rule. The use of normal clearance procedures will not allow for this recordkeeping requirement to be approved prior to the effective date of the final rule. Therefore, ACF is requesting that OMB grant a 180-day approval for this request under procedures for expedited processing. A request for review under normal procedures will be submitted within 180 days of the approval for this request. Only the burden related to the new recordkeeping requirement is displayed below. See OMB number 0970–0583 for additional information about existing recordkeeping requirements. This request under normal procedures will include an extension for all record keeping requirements under this OMB number.

Respondents: Head Start Grant recipients.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Responses per respondent	Average burden hours per response	Annual burden hours
Grant Recipient Updating Program Policies and Procedures	1,604	1	8	12,832

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. Comments will be considered and any necessary updates to materials made prior to, and responses provided in, the submission to OMB that will follow this public comment period.

Authority: 88 FR 993.

John M. Sweet Jr.,

ACF/OPRE Certifying Officer.

[FR Doc. 2023–00429 Filed 1–11–23; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–3116]

Photobiomodulation Devices—Premarket Notification Submissions; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Photobiomodulation (PBM) Devices—Premarket Notification [510(k)] Submissions.'' This draft guidance provides recommendations on premarket submissions for photobiomodulation devices, which are used in applications such as aesthetics, dermatology, and other general indications. This draft guidance is not final nor is it for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by March 13, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2022–D–3116 for ''Photobiomodulation (PBM) Devices—Premarket Notification [510(k)] Submissions.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Photobiomodulation (PBM) Devices—Premarket Notification [510(k)] Submissions.'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jessica Mavadia-Shukla, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4643, Silver Spring, MD 20993–0002, 301–348–1596.

SUPPLEMENTARY INFORMATION:

I. Background

PBM devices, also known as low level light therapy devices, are intended for use in applications such as aesthetics, dermatology, and other general indications. A PBM device is designed to deliver a non-heating dose of light energy into the body to provide clinical benefit to the patient. This draft guidance document provides FDA's recommendations on non-clinical testing, clinical studies, and labeling to support premarket submissions for PBM devices. The recommendations reflect current review practices and are intended to promote consistency and facilitate efficient review of these submissions.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Photobiomodulation (PBM) Devices—Premarket Notification [510(k)] Submissions.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov* and at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* Persons unable to download an electronic copy of ''Photobiomodulation (PBM) Devices—Premarket Notification [510(k)] Submissions'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16030 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

21 CFR part; guidance	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
812	Investigational Device Exemption	0910–0078
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-submissions	0910–0756
800, 801, and 809	Medical Device Labeling Regulations	0910–0485
50, 56	Protection of Human Subjects: Informed Consent; Institutional Review Boards.	0910–0130
820	Quality Systems Regulations	0910–0073

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00422 Filed 1–11–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; HiLo Limited Competition (UH3-Clinical Trial Required).

Date: March 27, 2023.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20892, 301–496–9010, *hoffertj@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: January 9, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00512 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.

Date: February 7–8, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cell Signaling and Molecular Endocrinology Study Section.

Date: February 7–8, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Latha Malaiyandi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812Q, Bethesda, MD 20892, (301) 435–1999, *malaiyandilm@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Population based Research in Infectious Disease Study Section.

Date: February 8–9, 2023.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Bacterial Virulence Study Section.

Date: February 8–9, 2023.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Susan Daum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, Bethesda, MD 20892, 301–827–7233, *susan.boyle-vavra@nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social and Environmental Determinants of Health Study Section.

Date: February 8–9, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ananya Paria, DHSC, MPH, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007H, Bethesda, MD 20892, (301) 827–6513, *pariaa@mail.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: February 8–9, 2023.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RM–22–016: SCGE Phase II, Platform Clinical Trials of Genome Editors in Multiple Diseases.

Date: February 8, 2023.

Time: 9:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Karobi Moitra, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–6893, *karobi.moitra@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroscience of Basic Visual Processes Study Section.

Date: February 8, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.

Date: February 8–10, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, (301) 408–9866, *manospa@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00439 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Dental and Craniofacial Research Special Emphasis Panel, February 2, 2023, 10:00 a.m. to February 2, 2023, 04:00 p.m., National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892, which was published in the **Federal Register** on December 19, 2022, 87 FR 77622.

This notice is being amended to change the contact SRO from Nisan Bhattacharyya to Yun Mei. Yun Mei's contact information is as follows:

Yun Mei, MD, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite #670, Bethesda, MD 20892, (301) 827–4639, *yun.mei@nih.gov.*

No other details have changed. The meeting is closed to the public.

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00431 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Probes and Contrast Agents Study Section.
Date: February 9–10, 2023.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: DoubleTree McLean Tysons, 1960 Chain Bridge Rd., McLean, VA 22212.
Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Environmental Determinants of Disease Study Section (EDD).
Date: February 9–10, 2023.
Time: 8:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Jodie Michelle Fleming, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812R, Bethesda, MD 20892, (301) 867–5309, *flemingjm@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; Mechanisms of Cancer Therapeutics B Study Section.
Date: February 9–10, 2023.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Maria Dolores Arjona Mayor, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 806D, Bethesda, MD 20892 (301) 827–8578 *dolores.arjonamayor@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.
Date: February 9–10, 2023.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, (301) 451–8754 *nussb@csr.nih.gov*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiology of Eye Disease—2 Study Section.
Date: February 9–10, 2023.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Cibu Paul Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 1011–H, Bethesda, MD 20894 (301) 402–4341 *thomascp@mail.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics Study Section.
Date: February 9–10, 2023.
Time: 9:30 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Altaf Ahmad Dar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–2680, *altaf.dar@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.
Date: February 9, 2023.
Time: 9:30 a.m. to 8:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Adem Can, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, (301) 435–1042, *cana2@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Biology and Development of the Eye Study Section.
Date: February 9–10, 2023.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kevin Czaplinski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–9139, *czaplinskik2@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.
Date: February 9–10, 2023.
Time: 10:00 a.m. to 7:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Sara Louise Hargrave, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, (301) 443–7193, *hargravesl@mail.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Basic Mechanisms of Diabetes and Metabolism Study Section.
Date: February 9–10, 2023.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Liliana Norma Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 6158, MSC 7890, Bethesda, MD 20892, (301) 827–7609 *liliana.berti-mattera@nih.gov.*

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Transmission of Vector-Borne and Zoonotic Diseases Study Section.
Date: February 9–10, 2023.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Haruhiko Murata, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–3245, *muratah@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00435 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Clinical Studies.

Date: February 16, 2023.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental & Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yun Mei, MD, Scientific Review Officer , Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite #670, Bethesda, MD 20892, (301) 827–4639 *yun.mei@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00432 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Research Infrastructure Development for Interdisciplinary Aging Studies.

Date: March 10, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bita Nakhai, Ph.D., Chief, Basic and Translational Sciences Section (BTSS), Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 9, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00511 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel RFA–DK22–016: Understanding the Pathophysiology and Clinical Course of New-Onset Diabetes Following COVID–19 (U01 Clinical Trial Not Allowed).

Date: March 16, 2023.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, NIDDK, DEM II, Suite 800, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00441 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK21–012 SBIR Review.

Date: February 23, 2023.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lan Tian, Ph.D., Scientific Review Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Bethesda, MD 20892, 202–821–7210 (mobile), *email: tianl@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 9, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00510 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; SBIR: Technologies for Assessment of Risk and Early Diagnosis of T1D.

Date: March 29, 2023.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lan Tian, Ph.D., Scientific Review Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Bethesda, MD 20892, 202–821–7210 (mobile), *email: tianl@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: January 9, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00509 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; AD Drug Development.

Date: March 3, 2023.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maurizio Grimaldi, MD, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–496–9374 *grimaldim2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00434 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Chip Assays in Aging.

Date: February 9, 2023.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–3562, *neuhuber@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 9, 2023.

Miguelina Perez

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00507 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: January 23, 2023.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Diana Maria Ortiz-Garcia, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–5614 *diana.ortiz-garcia@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 6, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00436 Filed 1–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0047]

Port Access Route Study: Approaches to Maine, New Hampshire, and Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability of draft report; extension of comment period.

SUMMARY: On January 3, 2023, the Coast Guard published a notice announcing the availability of a draft report of an Approaches to Maine, New Hampshire, and Massachusetts Port Access Route Study (MNMPARS). The notice we sent to the Office of the Federal Register provided for a 30-day comment period. But when the notice was published it listed a past date, February 2, 2022, as the end of the comment period. This document extends the intended comment period to a full 30 days from the date of publication of this notice. The Coast Guard seeks comments on the content, proposed routing measures, and development of the report. The recommendations of MNMPARS study may lead to future rulemakings or appropriate international agreements.

DATES: All comments and related material on the notice published at 88 FR 83 on January 3, 2022, must be received on or before February 13, 2023. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight, Eastern Daylight Time, on the last day of the comment period.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0047 using the Federal eRulemaking Portal (*http://www.regulations.gov*). See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on viewing the draft report and submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email LTJG Thomas Davis, First Coast Guard District (dpw), U.S. Coast Guard: telephone (617) 223–8632, email *SMB-D1Boston-MNMPARS@uscg.mil.*

SUPPLEMENTARY INFORMATION: On January 3, 2023, the Coast Guard published a notice announcing the availability of a draft report of an Approaches to Maine, New Hampshire, and Massachusetts Port Access Route Study (MNMPARS) (88 FR 83). While the public inspection version of the notice (*https://public-inspection.federalregister.gov/2022-28482.pdf*) provided a 30-day comment period notice, the **DATES** section of that published notice stated that comments and related material must be received on or before ''February 2, 2022.'' Because this was a past date, *regulations.gov* did not accept comments in our online docket. We attempted to get the Office of the Federal Register to correct but a correction has not yet been published.

If we were to simply correct the end of the comment period date in the document published January 3, 2023, that would not provide a full comment period. To provide those interested in commenting on the report a full 30-day comment period, the Coast Guard is extending the comment period to February 13, 2023. If the Office of the Federal Register issues a correction to the date in the January 3, 2022 notice, that will not impact this extension of the comment period. You will have from January 12, 2023 (if not earlier) to February 13, 2023.

The draft report is available at this specific address in the docket: *https://www.regulations.gov/document/USCG-2022-0047-0044.* This notice is published under the authority of 5 U.S.C. 552(a).

Dated: January 6, 2023.

James E. McLeod,

Acting Chief, Office of Regulations and Administrative Law.

[FR Doc. 2023–00418 Filed 1–11–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2302]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Buckeye (22–09–0619P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 14, 2023	040039
Maricopa	City of Goodyear (22–09–0284P).	The Honorable Joe Pizzillo, Mayor, City of Goodyear, 1900 North Civic Square, Goodyear, AZ 85395.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 14, 2023	040046
Maricopa	City of Phoenix (22–09–0759P).	The Honorable Kate Gallego, Mayor, City of Phoenix, City Hall, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 7, 2023	040051
California: San Diego.	City of San Diego (22–09–1348P).	The Honorable Todd Gloria, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, MS 301, San Diego, CA 92101.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 24, 2023	060295
Florida:						
Duval	City of Jacksonville (21–04–5039P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Edward Ball Building Development Services, Room 2100, 214 North Hogan Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 14, 2023	120077
Duval	City of Jacksonville (22–04–0449P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Edward Ball Building Development Services, Room 2100, 214 North Hogan Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 19, 2023	120077
Orange	City of Orlando (22–04–0252P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	City Hall Permitting Services, 400 South Orange Avenue, 1st Floor, Orlando, FL 32801.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2023	120186
Walton	Unincorporated Areas of Walton County (22–04–2584P).	Chair Trey Nick, Walton County, 263 Chaffin Avenue, DeFuniak Springs, FL 32433.	Walton Building Department, Walton County Courthouse Annex, 6th Street, Sloss Avenue, DeFuniak Springs, FL 32433.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 27, 2023	120317
Idaho: Ada	Unincorporated Areas of Ada County (22–10–0556P).	Chair Rod Beck, Ada County Board of County Commissioners, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Development Service Office, 650 Main Street, Boise, ID 83702.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2023	160001
Illinois:						
Cook	City of Elgin (22–05–0345P).	The Honorable David Kaptain, Mayor, City of Elgin, 150 Dexter Court, Elgin, IL 60120.	Public Works Department, Engineering Department, 150 Dexter Court, Elgin, IL 60120.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 27, 2023	170087

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Cook	Unincorporated Areas of Cook County (22–05–0345P).	The Honorable Toni Preckwinkle, President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, IL 60602.	Cook County Building and Zoning Department, 69 West Washington Street, 28th Floor, Chicago, IL 60602.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 27, 2023	170054
Cook and DuPage.	Village of Bartlett (22–05–0345P).	The Honorable Kevin Wallace, Village President, Village of Bartlett, 228 South Main Street, Bartlett, IL 60103.	Village Hall, 228 South Main Street, Bartlett, IL 60103.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 27, 2023	170059
Kane	City of St. Charles (22–05–2140P).	The Honorable Lora Vitek, Mayor, City of St. Charles, City Hall, 2 East Main Street, St. Charles, IL 60174.	City Hall, 2 East Main Street, St. Charles, IL 60174.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 18, 2023	170330
Kansas:						
Reno	City of Hutchinson (22–07–0572P).	The Honorable Jade Piros De Carvalho, Mayor, City of Hutchinson, 125 East Avenue B, Hutchinson, KS 67501.	City Hall, 125 East Avenue B, Hutchinson, KS 67501.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 3, 2023	200283
Reno	Unincorporated Areas of Reno County (22–07–0572P).	Daniel Friesen, Chairperson, Reno County Commissioner, 206 West 1st Avenue, Hutchinson, KS 67501.	Reno County Public Works Department, 600 Scott Boulevard, South Hutchinson, KS 67505.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 3, 2023	200567
Michigan: Oakland	City of Novi (22–05–0343P).	The Honorable Bob Gatt, Mayor, City of Novi, Civic Center, 45175 West Ten Mile Road, Novi, MI 48375.	Civic Center, 45175 West Ten Mile Road, Novi, MI 48375.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 10, 2023	260175
Minnesota:						
Anoka	City of Lino Lakes (22–05–1976P).	The Honorable Rob Rafferty, Mayor, City of Lino Lakes, City Hall, 600 Town Center Parkway, Lino Lakes, MN 55014.	City Hall, 600 Town Center Parkway, Lino Lakes, MN 55014.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 22, 2023	270015
Dakota	Unincorporated Areas of Dakota County (22–05–1797P).	Commissioner Mike Slavik, District 1, Dakota County Administration Center, 1590 Highway 55, Hastings, MN 55033.	Dakota County Administration Center, 1590 Highway 55, Hastings, MN 55033.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 17, 2023	270101
Nebraska: Lancaster.	City of Lincoln (22–07–0824P).	The Honorable Leirion Baird, Mayor, City of Lincoln, 555 South 10th Street, Suite 301 Lincoln, NE 68508.	Building and Safety Department, 555 South 10th Street, City of Lincoln, NE 68508.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 26, 2023	315273
New York: Rockland.	Village of Spring Valley (22–02–0020P).	The Honorable Alan M. Simon, Mayor, Village of Spring Valley, 200 North Main Street, Spring Valley, NY 10977.	Building Department, 200 North Main Street, Spring Valley, NY 10977.	*https://msc.fema.gov/portal/advanceSearch.*	May 23, 2023	365344
Texas:						
Tarrant	City of Fort Worth (22–06–0422P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 27, 2023	480596
Williamson	City of Round Rock (22–06–1378P).	The Honorable Craig Morgan, Mayor, City of Round Rock, City Hall, 221 East Main Street, Round Rock, TX 78664.	Transportation Department, 2008 Enterprise Drive, Round Rock, TX 78664.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 5, 2023	481048
Wisconsin: Milwaukee.	City of Milwaukee (21–05–3522P).	The Honorable Cavalier Johnson, Mayor, City of Milwaukee, 200 East Wells Street, Room 201, Milwaukee, WI 53202.	City Hall, 200 East Wells Street, Milwaukee, WI 53202.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 6, 2023	550278

[FR Doc. 2023–00526 Filed 1–11–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX23DK40GUK0100; OMB Control Number 1028–0097]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Water Resources Research Act Program—State Water Resources Research Institute Annual Base Grant, National Competitive Grants, and Reporting

AGENCY: Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the U.S. Geological Survey (USGS) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 13, 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. Written comments may also be sent by mail to the U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0097 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Information Collection Request (ICR), contact the Water Resources Research Act (WRRA) Program Manager by email at *gs-w_opp_wrra_team@usgs.gov* or by telephone at 502–413–7699. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 11, 2022, (87, 41347). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The State Water Resources Research Institutes were established under Section 104(a) of the WRRA [42 U.S.C. 10303(a)]. There are 54 Water Resources Research Institutes, one in each state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam; the Institute in Hawaii also serves American Samoa and the Institute in Guam serves both the Federated States of Micronesia and the Commonwealth of the Northern Mariana Islands. These Institutes cooperate with the USGS on reporting on the science that is accomplished and coordinating and facilitating regional research, outreach, and technology transfer.

The USGS WRRA program issues an annual announcement to solicit applications for noncompetitive State Water Resources Research Program annual base grants authorized by section 104(c) and for the national competitive grant program authorized by section 104(g) of the WRRA of 1984 (Pub. L. 98–242), as amended [42 U.S.C. 10303(c)].

Annual base grants (104(c)) may support research- and information-transfer projects as well as administrative projects that advance the institutes' overall administration and objectives; these research projects are generally selected in a competitive statewide solicitation, peer-review, and selection process designed and conducted by each institute. National competitive grants (104(g)) focus on water problems and issues of a regional or interstate nature beyond those of concern only to a single state and which relate to specific program priorities identified jointly by the Secretary of the Interior (delegated to the USGS) and the institutes.

Title of Collection: Water Resources Research Act Program—State Water Resources Research Institute Annual Base Grants, National Competitive Grants, and Reporting.

OMB Control Number: 1028–0097.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Universities.

Total Estimated Number of Annual Respondents: 54.

Total Estimated Number of Annual Responses: 54.

Estimated Completion Time per Response: 80 hours.

Total Estimated Number of Annual Burden Hours: 4,320 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA of 1995 (44 U.S.C. 3501 *et seq.*).

Tanja Williamson,

Acting WRRA Program Manager, U.S. Geological Survey.

[FR Doc. 2023–00532 Filed 1–11–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2341A2100DD/AAKC001030/ A0A501010.999900]

Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the current list of 574 Tribal entities recognized by and eligible for funding and services from the Bureau of Indian Affairs (BIA) by virtue of their status as Indian Tribes.

DATES: The list is updated from the notice published on January 28, 2022 (87 FR 4636).

FOR FURTHER INFORMATION CONTACT: Acting Deputy Director Johnna Blackhair, Bureau of Indian Affairs, Office of Indian Services, Mail Stop 3645–MIB, 1849 C Street NW, Washington, DC 20240. Telephone number: (202) 513–7641.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to section 104 of the Act of November 2, 1994 (Pub. L. 103–454; 108 Stat. 4791, 4792), in accordance with section 83.6(a) of part 83 of title 25 of the Code of Federal Regulations, and in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8. Published below is an updated list of federally recognized Indian Tribes within the contiguous 48 states and Alaska. Amendments to the list include formatting edits and name changes.

To aid in identifying Tribal name changes, the Tribe's previously listed, former name, or also known as (a.k.a.) is included in parentheses after the correct current Tribal name. The BIA will continue to list the Tribe's former or previously listed name for several years after the publication of the notice of the correct current Tribal name.

The listed Indian entities are recognized to have the immunities and privileges available to federally recognized Indian Tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations, and obligations of such Indian Tribes. The BIA has continued the practice of listing the Alaska Native entities separately for the purpose of facilitating identification of them.

There is a total of 347 federally recognized Indian Tribes within the contiguous 48 states and 227 federally recognized Native entities within the state of Alaska that comprise the 574 federally recognized Indian Tribes of the United States.

Bryan Newland,

Assistant Secretary—Indian Affairs.

Indian Tribal Entities Within the Contiguous 48 States Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs (347 Federally Recognized Indian Tribes Within the Contiguous 48 States)

Absentee-Shawnee Tribe of Indians of Oklahoma
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
Ak-Chin Indian Community
Alabama-Coushatta Tribe of Texas
Alabama-Quassarte Tribal Town
Alturas Indian Rancheria, California
Apache Tribe of Oklahoma
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
Augustine Band of Cahuilla Indians, California
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
Bay Mills Indian Community, Michigan
Bear River Band of the Rohnerville Rancheria, California
Berry Creek Rancheria of Maidu Indians of California
Big Lagoon Rancheria, California
Big Pine Paiute Tribe of the Owens Valley
Big Sandy Rancheria of Western Mono Indians of California
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California
Bishop Paiute Tribe
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
Blue Lake Rancheria, California
Bridgeport Indian Colony
Buena Vista Rancheria of Me-Wuk Indians of California
Burns Paiute Tribe
Cabazon Band of Cahuilla Indians (*Previously* listed as Cabazon Band of Mission Indians, California)
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
Caddo Nation of Oklahoma
Cahto Tribe of the Laytonville Rancheria
Cahuilla Band of Indians
California Valley Miwok Tribe, California
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California)
Catawba Indian Nation
Cayuga Nation
Cedarville Rancheria, California
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
Cherokee Nation
Cheyenne and Arapaho Tribes, Oklahoma
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Chickahominy Indian Tribe
Chickahominy Indian Tribe—Eastern Division
Chicken Ranch Rancheria of Me-Wuk Indians of California
Chippewa Cree Indians of the Rocky Boy's Reservation, Montana
Chitimacha Tribe of Louisiana
Citizen Potawatomi Nation, Oklahoma
Cloverdale Rancheria of Pomo Indians of California
Cocopah Tribe of Arizona
Coeur D'Alene Tribe
Cold Springs Rancheria of Mono Indians of California
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Comanche Nation, Oklahoma
Confederated Salish and Kootenai Tribes of the Flathead Reservation
Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of Siletz Indians of Oregon
Confederated Tribes of the Chehalis Reservation
Confederated Tribes of the Colville Reservation
Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Grand Ronde Community of Oregon
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs Reservation of Oregon
Coquille Indian Tribe
Coushatta Tribe of Louisiana

Cow Creek Band of Umpqua Tribe of Indians
Cowlitz Indian Tribe
Coyote Valley Band of Pomo Indians of California
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Crow Tribe of Montana
Delaware Nation, Oklahoma
Delaware Tribe of Indians
Dry Creek Rancheria Band of Pomo Indians, California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians
Eastern Shawnee Tribe of Oklahoma
Eastern Shoshone Tribe of the Wind River Reservation, Wyoming
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
Elk Valley Rancheria, California
Ely Shoshone Tribe of Nevada
Enterprise Rancheria of Maidu Indians of California
Ewiiaapaayp Band of Kumeyaay Indians, California
Federated Indians of Graton Rancheria, California
Flandreau Santee Sioux Tribe of South Dakota
Forest County Potawatomi Community, Wisconsin
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
Fort McDowell Yavapai Nation, Arizona
Fort Mojave Indian Tribe of Arizona, California & Nevada
Fort Sill Apache Tribe of Oklahoma
Gila River Indian Community of the Gila River Indian Reservation, Arizona
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan
Greenville Rancheria
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Guidiville Rancheria of California
Habematolel Pomo of Upper Lake, California
Hannahville Indian Community, Michigan
Havasupai Tribe of the Havasupai Reservation, Arizona
Ho-Chunk Nation of Wisconsin
Hoh Indian Tribe
Hoopa Valley Tribe, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians, California
Houlton Band of Maliseet Indians
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
Iipay Nation of Santa Ysabel, California
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
Ione Band of Miwok Indians of California
Iowa Tribe of Kansas and Nebraska
Iowa Tribe of Oklahoma
Jackson Band of Miwuk Indians
Jamestown S'Klallam Tribe
Jamul Indian Village of California
Jena Band of Choctaw Indians
Jicarilla Apache Nation, New Mexico
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation
Karuk Tribe
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
Kaw Nation, Oklahoma
Keweenaw Bay Indian Community, Michigan
Kialegee Tribal Town
Kickapoo Traditional Tribe of Texas
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Kickapoo Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Klamath Tribes
Kletsel Dehe Wintun Nation of the Cortina Rancheria (*Previously* listed as Kletsel Dehe Band of Wintun Indians)
Koi Nation of Northern California
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Indians, California
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Little River Band of Ottawa Indians, Michigan
Little Shell Tribe of Chippewa Indians of Montana
Little Traverse Bay Bands of Odawa Indians, Michigan
Lone Pine Paiute-Shoshone Tribe
Los Coyotes Band of Cahuilla and Cupeno Indians, California
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Lower Elwha Tribal Community
Lower Sioux Indian Community in the State of Minnesota
Lummi Tribe of the Lummi Reservation
Lytton Rancheria of California
Makah Indian Tribe of the Makah Indian Reservation
Manchester Band of Pomo Indians of the Manchester Rancheria, California
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
Mashantucket Pequot Indian Tribe
Mashpee Wampanoag Tribe
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
Mechoopda Indian Tribe of Chico Rancheria, California
Menominee Indian Tribe of Wisconsin
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
Miami Tribe of Oklahoma
Miccosukee Tribe of Indians
Middletown Rancheria of Pomo Indians of California
Mi'kmaq Nation (*Previously* listed as Aroostook Band of Micmacs)
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
Mississippi Band of Choctaw Indians
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Modoc Nation
Mohegan Tribe of Indians of Connecticut
Monacan Indian Nation
Mooretown Rancheria of Maidu Indians of California
Morongo Band of Mission Indians, California
Muckleshoot Indian Tribe
Nansemond Indian Nation
Narragansett Indian Tribe
Navajo Nation, Arizona, New Mexico, & Utah
Nez Perce Tribe
Nisqually Indian Tribe
Nooksack Indian Tribe
Northern Arapaho Tribe of the Wind River Reservation, Wyoming
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Northfork Rancheria of Mono Indians of California
Northwestern Band of the Shoshone Nation
Nottawaseppi Huron Band of the Potawatomi, Michigan
Oglala Sioux Tribe
Ohkay Owingeh, New Mexico
Omaha Tribe of Nebraska
Oneida Indian Nation
Oneida Nation
Onondaga Nation
Otoe-Missouria Tribe of Indians, Oklahoma

Ottawa Tribe of Oklahoma
Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Pala Band of Mission Indians
Pamunkey Indian Tribe
Pascua Yaqui Tribe of Arizona
Paskenta Band of Nomlaki Indians of California
Passamaquoddy Tribe
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
Pawnee Nation of Oklahoma
Pechanga Band of Indians (*Previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California)
Penobscot Nation
Peoria Tribe of Indians of Oklahoma
Picayune Rancheria of Chukchansi Indians of California
Pinoleville Pomo Nation, California
Pit River Tribe, California (Includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek, and Roaring Creek Rancherias)
Poarch Band of Creek Indians
Pokagon Band of Potawatomi Indians, Michigan and Indiana
Ponca Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Port Gamble S'Klallam Tribe
Potter Valley Tribe, California
Prairie Band Potawatomi Nation
Prairie Island Indian Community in the State of Minnesota
Pueblo of Acoma, New Mexico
Pueblo of Cochiti, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Pueblo of Zia, New Mexico
Puyallup Tribe of the Puyallup Reservation
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quapaw Nation
Quartz Valley Indian Community of the Quartz Valley Reservation of California
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
Quileute Tribe of the Quileute Reservation
Quinault Indian Nation
Ramona Band of Cahuilla, California
Rappahannock Tribe, Inc.
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Red Lake Band of Chippewa Indians, Minnesota
Redding Rancheria, California
Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria, California
Reno-Sparks Indian Colony, Nevada
Resighini Rancheria, California
Rincon Band of Luiseno Indians (*Previously* listed as Rincon Band of Luiseno Mission Indians of Rincon Reservation, California)
Robinson Rancheria
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Round Valley Indian Tribes, Round Valley Reservation, California
Sac & Fox Nation of Missouri in Kansas and Nebraska
Sac & Fox Nation, Oklahoma
Sac & Fox Tribe of the Mississippi in Iowa
Saginaw Chippewa Indian Tribe of Michigan
Saint Regis Mohawk Tribe
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Samish Indian Nation
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
San Juan Southern Paiute Tribe of Arizona
San Pasqual Band of Diegueno Mission Indians of California
Santa Rosa Band of Cahuilla Indians, California
Santa Rosa Indian Community of the Santa Rosa Rancheria, California
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
Santee Sioux Nation, Nebraska
Santo Domingo Pueblo
Sauk-Suiattle Indian Tribe
Sault Ste. Marie Tribe of Chippewa Indians, Michigan
Scotts Valley Band of Pomo Indians of California
Seminole Tribe of Florida
Seneca Nation of Indians
Seneca–Cayuga Nation
Shakopee Mdewakanton Sioux Community of Minnesota
Shawnee Tribe
Sherwood Valley Rancheria of Pomo Indians of California
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
Shinnecock Indian Nation
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation
Shoshone-Bannock Tribes of the Fort Hall Reservation
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
Skokomish Indian Tribe
Skull Valley Band of Goshute Indians of Utah
Snoqualmie Indian Tribe
Soboba Band of Luiseno Indians, California
Sokaogon Chippewa Community, Wisconsin
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Spirit Lake Tribe, North Dakota
Spokane Tribe of the Spokane Reservation
Squaxin Island Tribe of the Squaxin Island Reservation
St. Croix Chippewa Indians of Wisconsin
Standing Rock Sioux Tribe of North & South Dakota
Stillaguamish Tribe of Indians of Washington
Stockbridge Munsee Community, Wisconsin
Summit Lake Paiute Tribe of Nevada
Suquamish Indian Tribe of the Port Madison Reservation
Susanville Indian Rancheria, California
Swinomish Indian Tribal Community
Sycuan Band of the Kumeyaay Nation
Table Mountain Rancheria
Tejon Indian Tribe
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Band)
The Chickasaw Nation
The Choctaw Nation of Oklahoma
The Muscogee (Creek) Nation
The Osage Nation
The Seminole Nation of Oklahoma
Thlopthlocco Tribal Town
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Timbisha Shoshone Tribe
Tohono O'odham Nation of Arizona
Tolowa Dee-ni' Nation
Tonawanda Band of Seneca
Tonkawa Tribe of Indians of Oklahoma
Tonto Apache Tribe of Arizona
Torres Martinez Desert Cahuilla Indians, California
Tulalip Tribes of Washington
Tule River Indian Tribe of the Tule River Reservation, California
Tunica-Biloxi Indian Tribe
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
Turtle Mountain Band of Chippewa Indians of North Dakota
Tuscarora Nation
Twenty-Nine Palms Band of Mission Indians of California
United Auburn Indian Community of the Auburn Rancheria of California

United Keetoowah Band of Cherokee Indians in Oklahoma
Upper Mattaponi Tribe
Upper Sioux Community, Minnesota
Upper Skagit Indian Tribe
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Ute Tribe
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Wampanoag Tribe of Gay Head (Aquinnah)
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma
Wilton Rancheria, California
Winnebago Tribe of Nebraska
Winnemucca Indian Colony of Nevada
Wiyot Tribe, California
Wyandotte Nation
Yankton Sioux Tribe of South Dakota
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona
Yavapai-Prescott Indian Tribe
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada
Yocha Dehe Wintun Nation, California
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Ysleta del Sur Pueblo
Yuhaaviatam of San Manuel Nation (*Previously* listed as San Manuel Band of Mission Indians, California)
Yurok Tribe of the Yurok Reservation, California
Zuni Tribe of the Zuni Reservation, New Mexico

Native Entities Within the State of Alaska Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs (227 Federally Recognized Alaska Native Villages/Tribes Within the State of Alaska)

Agdaagux Tribe of King Cove
Akiachak Native Community
Akiak Native Community
Alatna Village
Algaaciq Native Village (St. Mary's)
Allakaket Village
Alutiiq Tribe of Old Harbor
Angoon Community Association
Anvik Village
Arctic Village (*See* Native Village of Venetie Tribal Government in the ''Clarification'' section below)
Asa'carsarmiut Tribe
Beaver Village
Birch Creek Tribe
Central Council of the Tlingit & Haida Indian Tribes
Chalkyitsik Village
Cheesh-Na Tribe
Chevak Native Village
Chickaloon Native Village
Chignik Bay Tribal Council
Chignik Lake Village
Chilkat Indian Village (Klukwan)
Chilkoot Indian Association (Haines)
Chinik Eskimo Community (Golovin)
Chuloonawick Native Village
Circle Native Community
Craig Tribal Association
Curyung Tribal Council
Douglas Indian Association
Egegik Village
Eklutna Native Village
Emmonak Village
Evansville Village (a.k.a. Bettles Field)
Galena Village (a.k.a. Louden Village)
Gulkana Village Council
Healy Lake Village
Holy Cross Tribe
Hoonah Indian Association
Hughes Village
Huslia Village
Hydaburg Cooperative Association
Igiugig Village
Inupiat Community of the Arctic Slope
Iqugmiut Traditional Council
Ivanof Bay Tribe
Kaguyak Village
Kaktovik Village (a.k.a. Barter Island)
Kasigluk Traditional Elders Council
Kenaitze Indian Tribe
Ketchikan Indian Community
King Island Native Community
King Salmon Tribe
Klawock Cooperative Association
Knik Tribe
Kokhanok Village
Koyukuk Native Village
Levelock Village
Lime Village
Manley Hot Springs Village
Manokotak Village
McGrath Native Village
Mentasta Traditional Council
Metlakatla Indian Community, Annette Island Reserve
Naknek Native Village
Native Village of Afognak
Native Village of Akhiok
Native Village of Akutan
Native Village of Aleknagik
Native Village of Ambler
Native Village of Atka
Native Village of Atqasuk
Native Village of Barrow Inupiat Traditional Government
Native Village of Belkofski
Native Village of Brevig Mission
Native Village of Buckland
Native Village of Cantwell
Native Village of Chenega (a.k.a. Chanega)
Native Village of Chignik Lagoon
Native Village of Chitina
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)
Native Village of Council
Native Village of Deering
Native Village of Diomede (a.k.a. Inalik)
Native Village of Eagle
Native Village of Eek
Native Village of Ekuk
Native Village of Ekwok
Native Village of Elim
Native Village of Eyak (Cordova)
Native Village of False Pass
Native Village of Fort Yukon
Native Village of Gakona
Native Village of Gambell
Native Village of Georgetown
Native Village of Goodnews Bay
Native Village of Hamilton
Native Village of Hooper Bay
Native Village of Kanatak
Native Village of Karluk
Native Village of Kiana
Native Village of Kipnuk
Native Village of Kivalina
Native Village of Kluti Kaah (a.k.a. Copper Center)
Native Village of Kobuk
Native Village of Kongiganak
Native Village of Kotzebue
Native Village of Koyuk
Native Village of Kwigillingok
Native Village of Kwinhagak (a.k.a. Quinhagak)
Native Village of Larsen Bay
Native Village of Marshall (a.k.a. Fortuna Ledge)
Native Village of Mary's Igloo
Native Village of Mekoryuk
Native Village of Minto
Native Village of Nanwalek (a.k.a. English Bay)
Native Village of Napaimute
Native Village of Napakiak
Native Village of Napaskiak
Native Village of Nelson Lagoon
Native Village of Nightmute
Native Village of Nikolski
Native Village of Noatak
Native Village of Nuiqsut (a.k.a. Nooiksut)
Native Village of Nunam Iqua
Native Village of Nunapitchuk
Native Village of Ouzinkie
Native Village of Paimiut
Native Village of Perryville
Native Village of Pilot Point
Native Village of Point Hope
Native Village of Point Lay
Native Village of Port Graham
Native Village of Port Heiden
Native Village of Port Lions
Native Village of Ruby
Native Village of Saint Michael
Native Village of Savoonga
Native Village of Scammon Bay
Native Village of Selawik
Native Village of Shaktoolik
Native Village of Shishmaref
Native Village of Shungnak
Native Village of Stevens
Native Village of Tanacross

Native Village of Tanana
Native Village of Tatitlek
Native Village of Tazlina
Native Village of Teller
Native Village of Tetlin
Native Village of Tuntutuliak
Native Village of Tununak
Native Village of Tyonek
Native Village of Unalakleet
Native Village of Unga
Native Village of Wales
Native Village of White Mountain
Nenana Native Association
New Koliganek Village Council
New Stuyahok Village
Newhalen Village
Newtok Village
Nikolai Village
Ninilchik Village
Nome Eskimo Community
Nondalton Village
Noorvik Native Community
Northway Village
Nulato Village
Nunakauyarmiut Tribe
Organized Village of Grayling (a.k.a. Holikachuk)
Organized Village of Kake
Organized Village of Kasaan
Organized Village of Kwethluk
Organized Village of Saxman
Orutsararmiut Traditional Native Council
Oscarville Traditional Village
Pauloff Harbor Village
Pedro Bay Village
Petersburg Indian Association
Pilot Station Traditional Village
Pitka's Point Traditional Council
Platinum Traditional Village
Portage Creek Village (a.k.a. Ohgsenakale)
Qagan Tayagungin Tribe of Sand Point
Qawalangin Tribe of Unalaska
Rampart Village
Saint George Island (*See* Pribilof Islands Aleut Communities of St. Paul & St. George Islands in the ''Clarification'' section below
Saint Paul Island (*See* Pribilof Islands Aleut Communities of St. Paul & St. George Islands in the ''Clarification'' section below)
Salamatof Tribe
Seldovia Village Tribe
Shageluk Native Village
Sitka Tribe of Alaska
Skagway Village
South Naknek Village
Stebbins Community Association
Sun'aq Tribe of Kodiak
Takotna Village
Tangirnaq Native Village
Telida Village
Traditional Village of Togiak
Tuluksak Native Community
Twin Hills Village
Ugashik Village
Umkumiut Native Village
Village of Alakanuk
Village of Anaktuvuk Pass
Village of Aniak
Village of Atmautluak
Village of Bill Moore's Slough
Village of Chefornak
Village of Clarks Point
Village of Crooked Creek
Village of Dot Lake
Village of Iliamna
Village of Kalskag
Village of Kaltag
Village of Kotlik
Village of Lower Kalskag
Village of Ohogamiut
Village of Red Devil
Village of Sleetmute
Village of Solomon
Village of Stony River
Village of Venetie (*See* Native Village of Venetie Tribal Government in the ''Clarification'' section below)
Village of Wainwright
Wrangell Cooperative Association
Yakutat Tlingit Tribe
Yupiit of Andreafski

Clarification

Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)—is not included in the official count of 574 federally recognized Indian Tribes but is recognized as an entity authorized to act on behalf of Artic Village and Village of Venetie by the BIA.

Pribilof Islands Aleut Communities of St. Paul & St. George Islands (Saint George Island and Saint Paul Island)—is not included in the official count of 574 federally recognized Indian Tribes but is recognized as an entity authorized to act on behalf of Saint George Island and Saint Paul Island.

[FR Doc. 2023–00504 Filed 1–11–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000.L11600000.DF0000. LXSSH1080000.234L1109AF; HAG23–0005]

Notice of Public Meetings for the San Juan Islands National Monument Advisory Committee, Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM's) San Juan Islands National Monument Advisory Committee (MAC) will meet as follows.

DATES: The MAC will hold a public meeting on Thursday, Feb. 2, 2023. This meeting will run from 9 a.m. to 3 p.m. The meeting will be held via Zoom. A public comment period will be available in the afternoon from 1:30 p.m. until 2:30 p.m.

The MAC will also hold a public meeting on Thursday, May 4, 2023. This meeting will run from 9 a.m. to 3 p.m. The meeting will be held via Zoom. A public comment period will be available in the afternoon from 1:30 p.m. until 2:30 p.m.

ADDRESSES: The Zoom meeting information and instructions will be posted on the Monument Advisory Committee's website at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington/san-juan-islands-mac* several weeks prior to each meeting and on the press release that goes out a week prior to each meeting.

The public may send written comments to the MAC at BLM Spokane District, Attn. MAC, 1103 N Fancher, Spokane Valley, WA 99212, or via email to *jeffclark@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Clark, Spokane District Public Affairs Officer, 1103 N Fancher, Spokane Valley, WA 99212, (509) 536–1297, or *jeffclark@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 San Juan Islands MAC is comprised of 12 members representing a wide array of interests, including recreation, Tribal interests, education, environmental organizations, and landowners. All advisory council meetings are open to the public. The February meeting will begin at 9 a.m. with a welcome of the new MAC members. After introductions, the members will spend time reviewing the anticipated Record of Decision for the San Juan Islands National Monument. Discussion and review will continue until a working lunch at noon. The next topic will be to consider opportunities for the MAC to support implementation of the anticipated Resource Management Plan (RMP). At 1:30 p.m., members of the public will have the opportunity to make comments to the MAC during a 1-hour public comment period. Persons wishing to make comments during the

public comment period will be called upon by the MAC Chair. Depending on the number of persons wishing to comment, the length of comments may be limited. The MAC will adjourn no later than 3 p.m.

The May meeting will also begin at 9 a.m. with welcomes and introductions. After introductions, the members will spend time reviewing possible implementation projects the MAC can assist with and clarifying items from the BLM. This discussion and review will continue through a working lunch at noon. The next topic will be to consider opportunities for the MAC to support implementation of the RMP. At 1:30 p.m., members of the public will have the opportunity to make comments to the MAC during a 1-hour public comment period. Persons wishing to make comments during the public comment period will be called upon by the MAC Chair. Depending on the number of persons wishing to comment, the length of comments may be limited. The MAC will adjourn no later than 3 p.m.

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least 7 business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

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.

(Authority: 43 CFR 1784.4–2.)

Kurt Pindel,

Spokane District Manager.

[FR Doc. 2023–00528 Filed 1–11–23; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP01000 L14400000.PN0000 223L1109AF; OMB Control No. 1004–XXXX]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Information Required To Cross Private Land for Access to BLM Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Land Management (BLM) is requesting approval for a new information collection.

DATES: Interested persons are invited to submit comments on or before February 13, 2023.

ADDRESSES: Written comments and recommendations for this information collection request (ICR) should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Marietta Esquibel by email at *mesquibe@blm.gov,* or by telephone at 505–954–2130. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on new, proposed, revised and continuing collections of information. This helps the BLM assess impacts of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BLM information collection requirements and ensure requested data are provided in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 9, 2022 (87 FR 55451). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting the public and other Federal agencies to comment on the proposed ICR described below. The BLM is especially interested in public comment addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including 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 submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This form will gather information from the public that is required by private landowners in order to cross private lands in order to access BLM lands. The information is necessary to help ensure the accountability of those seeking to cross private lands in order to access BLM public lands.

Title of Collection: Information Required to Cross Private Land for Access to BLM Lands.

OMB Control Number: 1004–XXXX.

Form Number: TBD.

Type of Review: New collection (Request for a new OMB Control Number).

Respondents/Affected Public: Individuals or households (those seeking to cross private land in order to access BLM lands.

Total Estimated Number of Annual Respondents: 100.

Total Estimated Number of Annual Responses: 100.

Estimated Completion Time per Response: 10 minutes.

Total Estimated Number of Annual Burden Hours: 17.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $0.

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 PRA of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin King,

Information Collection Clearance Officer.

[FR Doc. 2023–00506 Filed 1–11–23; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035096; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Riverside intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Mono County, CA.

DATES: Repatriation of the cultural items in this notice may occur on or after February 13, 2023.

ADDRESSES: Megan Murphy, University of California, Riverside, 900 University Avenue, Riverside, CA 92517–5900, telephone (951) 827–6349, email *megan.murphy@ucr.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Riverside. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the University of California, Riverside.

Description

Thirteen cultural items were removed from site CA-Mno-2122 in Mono, CA, during an archeological excavation led by Brooke Arkush from the University of California, Riverside. The primary objective of the investigation was to track material cultural changes and subsistence practices of the Mono Lake Paiute from the Late Archaic Period (circa A.D. 500) to the Euro-American Settlement of the lake basin (A.D. 1850–1920). The objects removed from the site represent approximately 1,500 years' worth of indigenous use and occupation of the landscape. Arkush particularly focused on corral traps used by the Mono Lake Paiute for hunting pronghorn.

The 13 objects of cultural patrimony are one lot of animal bones, one lot of ceramic sherds and vessels, one lot of glass shards and vessels, one lot of lithic flakes and arrowheads, one lot of metal fragments, one lot of shell artifacts and unmodified shell, one lot of wood artifacts, one lot of seed pods, one lot of mineralogical objects, one lot of glass beads, one lot of stones for milling, one lot of buttons (shell, metal, and wood), and one lot of fire-altered rock.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, historical, kinship, oral traditional, and expert opinion.

Through consultation with tribal representatives, the University of California, Riverside finds that this site is culturally affiliated with the Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California, and the Bridgeport Paiute Indian Colony. The Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California considers the Owens Valley and Northern Paiute to be one related people and indigenous to the areas in which they now reside.

The Mono Lake Kootzaduka'a Tribe, a non-federally recognized Indian group that also was consulted, consider the Mono Lake Basin to be their aboriginal territory, too. This group's representatives stated that Mono Lake families are related to families who are now members of the Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California, and the Bridgeport Paiute Indian Colony.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of California, Riverside has determined that:

- The 13 cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California, and the Bridgeport Indian Colony (*previously* listed as Bridgeport Paiute Indian Colony of California).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, the University of California, Riverside must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California, Riverside is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00467 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035104; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Beloit College, Logan Museum of Anthropology, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Beloit College, Logan Museum of Anthropology (LMA) intends to repatriate a cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural item was removed from Oklahoma.

DATES: Repatriation of the cultural items in this notice may occur on or after February 13, 2023.

ADDRESSES: Nicolette B. Meister, Beloit College, Logan Museum of Anthropology, 700 College Street, Beloit, WI 53511, telephone (608) 363–2305, email *meistern@beloit.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LMA. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the LMA.

Description

In 1901, one item of cultural patrimony was removed from Oklahoma by Dr. George A. Dorsey. The object of cultural patrimony is a shield cover (31207.2) that originally belonged to Tall Chief. Osage shield covers of this nature are objects of cultural patrimony consecrated during ceremonies conducted by Osage clan priests. This shield was bestowed on a warrior who had earned all thirteen ceremonial war honors as part of the ''Rite of the Vigil'' ritual. The shield cover was received by the LMA in 1956, from C.H. Boyd of Minocqua, WI.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: linguistic, oral traditional, geographical, kinship, historical, and anthropological.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the LMA has determined that:

- The one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural item and The Osage Nation (*previously* listed as Osage Tribe).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, the LMA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The LMA is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00474 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035105; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Penn State University, Matson Museum of Anthropology, University Park, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Matson Museum of Anthropology, Penn State University has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from Smyth and Washington Counties, VA.

DATES: Disposition of the human remains in this notice may occur on or after February 13, 2023.

ADDRESSES: Dr. James Doyle, Director, Matson Museum of Anthropology, Penn State University, 216 Carpenter Building, University Park, PA 16802, telephone (814) 865–2033, email *matsonmuseum@psu.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 Matson Museum of Anthropology, Penn State University. 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 Matson Museum of Anthropology, Penn State University.

Description

In 1978, Mrs. Bertha H. Lucas donated human remains that had been removed from the State of Virginia to Pennsylvania State University. Since 1902, her husband, Mr. Howard K. Lucas, had been collecting prehistoric items, and during the 1920s and 1930s, he purchased some items from other collectors. Although the Matson Museum's accession file does not specify how and when particular items

in the Lucas Collection were acquired, it does state that human remains representing, at minimum, 25 individuals were removed from Smyth and Washington Counties, VA. The Lucas Collection (Penn State Lot 27) contains 25 skulls. Four crania have no mandibles (PSU27:137 belonging to a young adult female, PSU27:141 belonging to an adult female, PSU27:146 belonging to an aged adult, and PSU27:175 belonging to an adult male). Six crania have matching mandibles (PSU27:142 belonging to a young adult, PSU27:159 belonging to a young adult, PSU27:165 belonging to an adult male, PSU27:171 belonging to an adult female, PSU27:172 belonging to an adult male, and PSU27:173 belonging to an adult male). Three crania have uncertain matching mandibles (PSU27:140 belonging to an adult male, PSU27:166 belonging to an adult male, and PSU27:168 belonging to a young adult). Twelve crania have attached, unassociated mandibles (PSU27:135 belonging to an adult male, PSU27:138 belonging to a female with an attached mandible belonging to an adult male, PSU27:139 belonging to an adult male, PSU27:143 belonging to an adult male, PSU27:144 belonging to a young adult, PSU27:145 belonging to an adult, PSU27:147 belonging to an adult, PSU27:148 belonging to a young adult male with an attached mandible belonging to a female, PSU27:167 belonging to an adult male, PSU27:169 belonging to an adult female, PSU27:170 belonging to an adult male, and PSU27:174 belonging to an adult). One cranium with matching mandible came from Keywood in Washington County (PSU27:172); one cranium with matching mandible came from Broadford in Smyth County (PSU27:171); and the remaining 23 skulls came from Saltville in Smyth County. No known individuals were identified. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land. Based on the 1884 Cherokee Land Cessions map compiled by C.C. Royce, there were two colonial era treaties between the Cherokee and the British that include Smyth and Washington Counties—the Treaty of October 14, 1770 at Lochabar, South Carolina, and the Treaty of March 17, 1775 with Richard Henderson.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the Matson Museum of Anthropology, Penn State University has determined that:

- The human remains described in this notice represent the physical remains of, at minimum, 25 individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.
- The human remains described in this notice were removed from the aboriginal land of the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after February 13, 2023. If competing requests for disposition are received, the Matson Museum of Anthropology, Penn State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. The Matson Museum of Anthropology, Penn State University 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 and 10.11.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00475 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035094; PPWOCRADN0–PCU00RP14.R50000]

Notice To Rescind a Notice of Inventory Completion: Mississippi Department of Archives and History, Jackson, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Mississippi Department of Archives and History, is rescinding a Notice of Inventory Completion published in the **Federal Register** on June 20, 2005.

FOR FURTHER INFORMATION CONTACT: Jessica Walzer, NAGPRA Coordinator, Mississippi Department of Archives and History, Museum Division, 222 North Street, P.O. Box 571, Jackson, MS 39205, telephone (601) 359–6851, email *jwalzer@mdah.ms.gov.*

SUPPLEMENTARY INFORMATION: Notice was previously 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 Mississippi Department of Archives and History, Jackson, MS. The human remains and associated funerary objects were removed from the Alston-Wilson site (MLe14) in Lee County, MS.

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 institution 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.

The Mississippi Department of Archives and History is rescinding a Notice of Inventory Completion published in the **Federal Register** (70 FR 35451–35452, June 20, 2005). Transfer of control of the items in that notice has not occurred.

Correction

All paragraphs in the **Federal Register** notice of June 20, 2005 (70 FR 35451–35452) are deleted in their entirety.

The Mississippi Department of Archives and History is responsible for notifying the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Jena Band of Choctaw Indians;

Miami Tribe of Oklahoma; Mississippi Band of Choctaw Indians; Quapaw Nation (*previously* listed as The Quapaw Tribe of Indians); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Osage Nation (*previously* listed as Osage Tribe); and the Tunica-Biloxi Indian Tribe that this notice has been published.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00465 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–NAMA–NPS0034515; PPNCNAMAN70, PPMPSPD1Z.YM00000 (222); OMB Control Number 1024–0021]

Agency Information Collection Activities; National Capital Area Application for Public Gathering

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before March 13, 2023.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, NPS Information Collection Clearance Officer (ADIR–ICCO), 12201 Sunrise Valley Drive, (MS–242) Reston, VA 20191 (mail); or by email at *phadrea_ponds@nps.gov* (email). Please reference Office of Management and Budget (OMB) Control Number 1024–0021 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Marisa Richardson, Permit Specialist by email at *marisa_richardson@nps.gov;* or by telephone at 202–245–4715. Please reference OMB Control Number 1024–0021 in the subject line of your comments. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Division of Permits Management of the National Mall and Memorial Parks is authorized by regulations codified in 36 CFR 7.96(g) to issue permits for public gatherings, including special events and demonstrations, held on NPS property within the National Capital Area. The regulations reflect the special demands on many urban National Capital Area parks used as sites for demonstrations and special events. A special event is defined as any presentation, program, or display that is recreational, entertaining, or celebratory in nature (*e.g.,* sports events, pageants, celebrations, historical reenactments, regattas, entertainments, exhibitions, parades, fairs, festivals, and similar events). The term ''demonstration'' includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services, and all other similar forms of conduct that involve the communication or expression of views or grievances. We use information from NPS Form 10–941 to determine:

- Identity of the person(s) or organization(s) requesting authorization to conduct a demonstration or special event, and to determine whether the applicant(s) meets statutory requirements to conduct the activity.
- Nature of the proposed activity and whether there is statutory authority to grant permission to engage in it.
- Whether the proposed activity is in derogation from park values or purposes.
- Relationship between the proposed activity and the primary purpose(s) for which the park area was established and relevant park planning documents.
- Whether there is a legitimate NPS need or interest in the proposed activity.
- Whether the proposed activity would require a commitment of public resources or facilities, whether such commitments are legitimate and appropriate, and whether they are available.
- Long-term or short-term adverse effects caused by the proposed activity on park resources, facilities, or programs.
- Need for attaching special conditions or mitigating measures to the permit, if issued.
- Total cost to the park of monitoring proposed activity.
- Whether a waiver of numerical limitations on the White House sidewalk and/or Lafayette Park should be granted.
- Law enforcement resources needed to assure public safety and site security, especially at the White House, during the activity.

Depending on the size and complexity of the proposed activity, we may require applicants to submit supporting documents such as:

- *Site Plan:* A complete site plan must be submitted if tents, stages, or any other type of structure are to be placed on parkland.
- *Sign Plan:* The plan will provide the overall size, number, and design of any signs or banners.

• *Risk Management Plan:* For events with significant equipment use during set-up and tear-down.

• *Administrative Documents:* We may require applicants submit a portable toilet contract, evidence of liability insurance coverage, IRS W–9 form, or an electronic funds transfer form.

We will use an electronic system to receive applications while continuing to accept hard-copy applications.

Title of Collection: National Capital Area Application for Public Gathering, 36 CFR 7.96(g).

OMB Control Number: 1024–0021.

Form Number: NPS Form 10–941, ''Application for a Permit to Conduct a Demonstration or Special Event in Park Areas''.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals, organizations, businesses, and State, local, or tribal governments.

Total Estimated Number of Annual Responses: 6,267.

Estimated Completion Time per Response: Varies from 0.5 hours to 1.5 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 5,221.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $105,840. Of the Applications for Public Gatherings received from organizations, businesses, and individual approximately 882 are for special events. A $120 application fee is submitted to recover the cost of processing the request. The estimated annual non-hour burden cost associated with this information collection is $105,840 ($120 × 882 applicants). There is no application fee for permits to cover first amendment activities.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2023–00518 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035100; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of California, San Diego, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, San Diego 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 Hale and Tuscaloosa Counties, AL.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 13, 2023.

ADDRESSES: Eva Trujillo, University of California, San Diego, 9500 Gilman Drive, La Jolla, CA 92093, telephone (858) 414–4609, email *e7trujillo@ucsd.edu*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, San Diego. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of California, San Diego.

Description

Human remains representing, at minimum, 478 individuals were removed from various Moundville sites in Hale and Tuscaloosa Counties, AL. From the 1930's to 1987, several large-scale archeological excavations undertaken at the Moundville sites on behalf of the University of Alabama resulted in the removal of Native American human remains. In January of 1987, Dr. Margaret Schoeninger and two colleagues requested samples of fragmentary human remains from the University of Alabama Museum Collections for the purpose of diet and ecology reconstruction research pertaining to Moundville I, II, and III phases. In response, samples from the various Moundville sites were transferred to Dr. Schoeninger and her colleagues. Sometime in the 2000s, the Moundville sample collection and limited supporting documentation were transferred to the University of California, San Diego. In June of 2020, the University of California, San Diego became aware of this collection. The one associated funerary object is one lot of faunal remains.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, oral traditional, and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of California, San Diego has determined that:

• The human remains described in this notice represent the physical remains of 478 individuals of Native American ancestry.

• The one lot of objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and present-day Muskogean speaking Tribes, namely the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, the University of California, San Diego must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of California, San Diego is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00472 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035107; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Thomas Burke Memorial Washington State Museum (Burke Museum) 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 Thomas Bay in Petersburg Borough, AK.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 13, 2023.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849x2, email *plape@uw.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 Burke Museum. 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 Burke Museum.

Description

Human remains representing, at minimum, one individual were removed from a cave in Thomas Bay, AK, by Floyd Schmoe, who donated them to the Burke Museum (Burke Accession #2439). The human remains belong to an infant whose head is covered in red ochre. No known individual was identified. The six funerary objects are one wood box with metal handles, one piece of basketry matting with attached leather handles, one lot of cordage, one lot of fur, one animal hide, and one wool tunic with Chinese coins attached.

The funerary objects and burial characteristics indicate a relatively recent, historic era burial. The style of the wool tunic is consistent with Tlingit traditional garments. It was often considered a sign of wealth or status to use trade materials, in particular Chinese coins, to embellish Tlingit clothing. During consultation, genetic analysis was requested to confirm that the human remains are of Native American ancestry. The results of the analysis showed that the individual's mitochondrial DNA belongs to sub-haplogroup A2, which indicates Native American ancestry through the maternal line. Haplogroup A is the most common form of mitochondrial DNA in Native Americans in southeast Alaska (Kemp & Schurr, 2010).

Thomas Bay is located north of the town of Petersburg on the Alaskan mainland, and it lies within the aboriginal territory of the southern coast Tlingit Stikine (De Laguna 1990:204). According to local oral history, Thomas Bay was the location of two village sites that were destroyed and abandoned due to natural disaster and disease. Information provided during consultation indicates that the surviving residents of these villages relocated to Petersburg and are represented today by the Petersburg Indian Association.

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: anthropological, archeological, biological, geographical, historical, oral traditional, and other relevant information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Burke Museum has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The six 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 Petersburg Indian Association.

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 February 13, 2023. If competing requests for repatriation are received, the Burke Museum 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 Burke Museum 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: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00477 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035098; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Saint Louis Science Center, St. Louis, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Saint Louis Science Center (SLSC) 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 St. Louis County, MO.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 13, 2023.

ADDRESSES: Kristina Hampton, Manager of Collections and Special Projects, Saint Louis Science Center, 5050 Oakland Avenue, St. Louis, MO 63110, telephone (314) 286–4672, email *Kristina.hampton@slsc.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 SLSC. 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 SLSC.

Description

In 1870, human remains representing, at minimum, one individual were removed from site 23SL3, Big Mound, in St. Louis County, MO, by archeologist Henry M. Whelpley with support from the Academy of Science of St. Louis. Upon his death in 1944, Whelpley donated his archeological collection, amassed during decades of excavations, to the Academy of Science of St. Louis. In 1959, the Academy of Science of St. Louis created the Museum of Science and Natural History in St. Louis, MO. In 1972, the Museum of Science and Natural History separated from the Academy of Science of St. Louis and control of this collection was transferred to the Museum of Science and Natural History. In 1985, when the Museum of Science and Natural History joined with St. Louis City's Planetarium, the newly formed institution was named the Saint Louis Science Center. This collection remains with the SLSC and is used to support the SLSC's mission, exhibits, and programs. No known individual was identified. The one associated funerary object is one lot of perforated shell discs (approximately 86 discs strung on twine).

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: oral traditional, linguistic, archeological, and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the SLSC has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The one object 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 Osage Nation (*previously* listed as Osage Tribe).

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 February 13, 2023. If competing requests for repatriation are received, the SLSC 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 SLSC 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: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00470 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035095; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the

University of California, Riverside (UCR) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Orange County, CA.

DATES: Repatriation of the cultural items in this notice may occur on or after February 13, 2023.

ADDRESSES: Megan Murphy, University of California, Riverside, 900 University Avenue, Riverside, CA 92517–5900, telephone (951) 827–6349, email *megan.murphy@ucr.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Riverside. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the University of California, Riverside.

Description

In 1933, while returning from a day at Laguna Beach, Howard Wilson and Ed Marriner, amateur artifact collectors, discovered the cranium of one Native American individual near Coast Highway in Orange County, where construction crews had reportedly uncovered additional human remains. The cranium, which is referred to colloquially as the ''Laguna Woman Skull,'' was subsequently studied at various institutions to determine the individual's archeological age. In addition to the cranium, a layer of Mytilus californianus shells was discovered in association with additional human bone fragments. One of these shells contained potential bone fragments in its hollows. In 1969, it was sent to the University of California, Los Angeles (UCLA) radiocarbon dating laboratory for testing. In 2016, R.E. Taylor, the founder of the decommissioned UCR Radiocarbon Dating Laboratory, donated the UCR and UCLA laboratories' archives and residual samples to UCR, including this shell. A note found by UCR NAGPRA Staff on the original sample bag that accompanied the shell reads, ''UCLA–1233B, Mytilus californianus Conrad found in long bone of Laguna Man.'' The shell and bone fragments yielded a radiocarbon date of >14,800 BPE but this date has been heavily contested in the scientific literature. The one unassociated funerary object is a Mytilus californianus Conrad shell.

In 1991, ahead of the construction of the Newport Coast Planned Community, site CA–ORA–340 was excavated along with 37 other sites by the ''Newport Coast Archaeological Project,'' under the direction of archeologist Hank Koerper. This site was located on a marine terrace overlooking Crystal Cove, in the Wishbone Hill tract of the planned community. During the excavation of CA–ORA–340, a burial containing the human remains of one adult and one infant was uncovered. Among the associated funerary objects were concentrations of olivella, haliotis, and mytilus shell beads. One of these beads, an orange Olivella shell bead with white spots, was sent to the UCR radiocarbon dating laboratory. In 2016, R.E. Taylor, the founder of the laboratory, donated the collections from the decommissioned laboratory to the UCR library, including this shell bead. Only in 2021, was the provenience of the bead identified, when UCR NAGPRA Staff were reviewing archival records associated with the collection. The one unassociated funerary object is a shell bead.

UCR NAGPRA Program Staff consulted with a number of Tribes with dealings in Orange County including the Juaneño Band of Mission Indians, Acjachemen Nation-Belardes, a non-federally recognized Tribe, who recognize this area as ancestral territory. The Pechanga Band of Indians (*previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California), a federally recognized Tribe, has agreed to accept a transfer of these collections to facilitate repatriation.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, historical, oral traditional, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of California, Riverside has determined that:

- The two cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Pechanga Band of Indians (*previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, the University of California, Riverside must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California, Riverside is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00466 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035106; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Bryn Mawr College, Bryn Mawr, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Bryn Mawr College intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Jackson County, AL; Montgomery County, AL; Adams County, MS; Greene County, TN; Knox County, TN; and Roane County, TN.

DATES: Repatriation of the cultural items in this notice may occur on or after February 13, 2023.

ADDRESSES: Marianne Weldon, Bryn Mawr College, 101 N Merion Avenue, Bryn Mawr, PA 19010, telephone (610) 526–5022, email *mweldon@brynmawr.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 Bryn Mawr 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 summary or related records held by Bryn Mawr College.

Description

William Sansom Vaux bequeathed a collection to the Academy of Natural Sciences (ANS) upon his death in 1882. ANS accessioned them on June 27, 1912. In 1961, ANS loaned approximately 3,000 items, including the 29 unassociated funerary objects described below, to Bryn Mawr College. In 1997, the ANS board voted to transfer control to Bryn Mawr College and executed the paperwork in 1998.

One cultural item was removed from a shell mound in Jackson County, AL. The unassociated funerary object is one discoidal or chunkey stone (70.30.2).

One cultural item was removed from Meigs, Montgomery County, AL. The unassociated funerary object is one spearhead (70.30.1).

Fourteen cultural items were removed from Natchez, Adams County, MI. The 14 unassociated funerary objects are one bannerstone (70.31.46), five bowls (73.3.3, 73.3.6, 73.3.7, 73.3.8, 73.3.9), four celts (70.31.25, 70.31.30, 70.31.31, 70.31.32), and four vessels (73.3.1, 73.3.2, 73.3.4, 73.3.5).

Five cultural items were removed from Lick Creek Mound, Greene County, TN. The five unassociated funerary objects are one lot of beads (70.24.132, 70.24.133), two gorgets (70.24.130, 70.24.131), and two pipes (70.24.123, 70.24.124).

One cultural item was removed from a mound site in Greene County, TN. The unassociated funerary object is one necklace (70.24.140).

Three cultural items were removed from Knoxville Mound, Knox County, TN. The unassociated funerary objects are one lot of beads (70.24.134, 70.24.135, 70.24.136, 70.24.137, 70.24.138, 70.24.139) and two pins (70.24.142, 0.24.143).

One cultural item was removed from a mound site in Knoxville, Knox County, TN. The unassociated funerary object is one gorget (70.24.129).

Two cultural items were removed from Knoxville, Knox County, TN. The unassociated funerary objects are one pin (70.24.144) and one gorget (70.24.145).

One cultural item was removed from the Clark River, Roane County, TN. The unassociated funerary object is one pin (70.24.141).

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Bryn Mawr College has determined that:

- The 29 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and The Muscogee (Creek) Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, Bryn Mawr College must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. Bryn Mawr is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00476 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035099; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of Nebraska State Museum, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Nebraska State Museum intends to repatriate certain cultural items that meet the definition of sacred objects and objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this

notice. The cultural items were removed from an unknown location.

DATES: Repatriation of the cultural items in this notice may occur on or after February 13, 2023.

ADDRESSES: Taylor Ronquillo, University of Nebraska State Museum, 900 N 16th Street, Lincoln, NE 68508, telephone (402) 472–6592, email *tronquillo2@unl.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 Nebraska State Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the University of Nebraska State Museum.

Description

The 14 cultural items were removed from an unknown location. The only information provided to the University of Nebraska State Museum (UNSM) concerning their provenience was that they share a geographical location of the Northwest Coast.

On May 24, 2021, the UNSM obtained ownership of 1,355 objects from the Joslyn Art Museum (JAM). JAM had obtained ownership of this collection from the Omaha Public Library on December 10, 2020. Among these 1,355 objects were 13 cultural items—two sacred objects and 11 objects of cultural patrimony—from the Northwest Coast Region. The two sacred objects are one seal drag and one dew claw rattle. The 11 objects of cultural patrimony are three baskets, one spoon, three hooks, one slate adz, two harpoon heads, and one harpoon.

In 1892, Harvey Shotwell donated a spirit canoe to UNSM. There only information accompanying this donation was that the item came from the Northwest Coast Region. This spirit canoe is a sacred object.

On September 16, 2022, during consultation between the Stillaguamish Tribe of Indians of Washington and the UNSM, tribal representatives identified the spirit canoe, the seal drag, and the dew claw rattle as sacred objects and the three baskets, the spoon, the three hooks, the slate adz, the two harpoon heads, and the harpoon as objects of cultural patrimony, and they also requested the repatriation of these 14 cultural items. According to information provided by the Tribe, these items are typical of the region, similar items have been used in ceremonial ways by the Tribe, and local Tribal artists still create similar items today.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical and oral traditional.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of Nebraska State Museum has determined that:

- Three of the cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Eleven of the cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Stillaguamish Tribe of Indians of Washington (*previously* listed as Stillaguamish Tribe of Washington).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, the University of Nebraska State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of Nebraska State Museum is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00471 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035097; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: South Carolina Institute of Archaeology and Anthropology, University of South Carolina, Columbia, SC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the South Carolina Institute of Archaeology and Anthropology (SCIAA) 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 Lancaster County, SC.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 13, 2023.

ADDRESSES: Adam King, South Carolina Institute of Archaeology and Anthropology (SCIAA), College of Arts and Sciences, University of South Carolina, 1321 Pendleton Street, Columbia, SC 29208, telephone (803) 409–9777, email *aking@sc.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 SCIAA. 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 SCIAA.

Description

In 1965, human remains representing, at minimum, one individual were removed from site 38LA00–JH, in Lancaster County, SC, by Mr. John R. Hart of York, SC, from a ''Historic Catawba Burial, near Van Wyck, South Carolina.'' In 1981, the human remains were donated to SCIAA following Mr. Hart's death by his son, Mr. John R. Hart III. No known individual was identified. The 79 associated funerary objects are 11 metal arm band fragments; 27 round metal trade brooches; three heart shaped metal trade brooches; 10 metal disk button fragments; five metal ball buttons; two faceted, clear glass button/jewelry insets; 18 metal jewelry fragments [three wire hoops, two flat triangles, eight cut triangles with bead dangles, three dangles, and two eagles], one lot of glass beads, one lot of miscellaneous cut nail fragments, and one lot of miscellaneous fabric fragments.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, SCIAA has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 79 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 Catawba Indian Nation (*previously* listed as Catawba Tribe of South Carolina).

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 February 13, 2023. If competing requests for repatriation are received, the SCIAA 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 SCIAA 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: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00468 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035103; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Hastings Museum, Hastings, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Hastings Museum intends to repatriate a certain cultural item that meets the definition of an unassociated funerary object and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural item was removed from Trigg County, KY.

DATES: Repatriation of the cultural item in this notice may occur on or after February 13, 2023.

ADDRESSES: Dan Brosz, Hastings Museum, 1330 N Burlington Avenue, Hastings, NE 68901, telephone (402) 462–2399, email *dbrosz@cityofhastings.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 Hastings Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the Hastings Museum.

Description

On an unknown date, an unassociated funerary object was removed from an unidentified mound in Trigg County, KY, by R.E. Dodge. This unassociated object came to the Hastings Museum between 1926 and 1931. The one unassociated funerary object is a cylindrical bead made from tightly wound copper.

Cultural Affiliation

The cultural items 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.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Hastings Museum has determined that:

- The one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural item and The Chickasaw Nation (as the requestor on behalf of and in coordination with the Cherokee Nation; Eastern Band of

Cherokee Indians; The Chickasaw Nation; and The Muscogee (Creek) Nation).

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 13, 2023. If competing requests for repatriation are received, the Hastings Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Hastings Museum is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00473 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035093; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: New Mexico State University Museum, Las Cruces, NM; U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Las Cruces, NM; and U.S. Department of Agriculture, Forest Service, Gila National Forest, Silver City, NM, and Apache Sitgreaves National Forest, Springerville, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New Mexico State University Museum; U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office; and the U.S. Department of Agriculture, Forest Service, Gila National Forest and Apache Sitgreaves National Forest have completed an inventory of human remains and associated funerary objects and have 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 Apache County AZ, Doña Ana County, NM, Grant County, NM, Lincoln County, NM, Luna County, NM, Otero County, NM, Sierra County, NM and, in certain instances, from locations unknown.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 13, 2023.

FOR FURTHER INFORMATION CONTACT: Dr. Fumi Arakawa, New Mexico State University Museum Director's Office, 1525 Stewart, Room 331, P.O. Box 30001, MSC:3BV, Las Cruces, NM 88003–8001, email *farakawa@nmsu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the New Mexico State University Museum (University Museum); U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office (BLM); and the U.S. Department of Agriculture, Forest Service, Gila National Forest, Silver City, NM (Gila NF), and Apache Sitgreaves National Forest, Springerville, AZ (Apache Sitgreaves NF), and in the physical custody of the New Mexico State University Museum.

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 Museum, BLM, Gila NF, or Apache Sitgreaves NF. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University Museum.

Description

Between 1950 and 2001, human remains representing a minimum of 288 individuals and 1,079 associated funerary objects were acquired by the University Museum by various means. The University acquired many human remains and associated funerary objects through donations by private individuals from sites on private land. In several instances, the exact location and/or land status from which the donated human remains and associated funerary objects were removed is unknown. Human remains and associated funerary objects in custody of the University Museum that originate from federal land belonging to either BLM, Gila NF, or Apache Sitgreaves NF were acquired through archeological excavations or surveys that were sanctioned by the respective managing agency. The University Museum has control of the human remains and associated funerary objects removed from private lands that were acquired by means of donation and has custody of the human remains and associated funerary objects removed from federal land belonging either to the BLM, Gila NF, or Apache Sitgreaves NF.

Aiken-Dearholt—Human remains representing, at minimum, four individuals were removed from a pueblo ruin in Chavez County, NM. In 1932, human remains representing, at minimum, two individuals were removed by Mr. and Mrs. Aiken. On December 21, 1987, Mrs. Zelma Aiken donated a stone fetish and a small ceramic jar from known burial contexts at the pueblo to the University Museum. In 1999, the stone fetish and ceramic jar were identified as being ''unassociated funerary objects.'' On March 21, 2001, Mrs. Aiken's grandson, William R. Dearholt, donated additional funerary objects and human remains from the same pueblo. The donation included human remains representing, at minimum, two individuals. No known individuals were identified. The previous donated materials of a stone fetish and ceramic jar by Mrs. Zelma Aiken appear to have derived from the same burial contexts from which the two individuals were taken from. The 44 donated funerary objects by Mrs. Aiken and Mr. Dearholt together represent one red-on-white bowl, one stone animal fetish, 12 Mimbres Black-on-white (oxidized) pottery sherds, and 30 Mimbres Black-on-white pottery sherds. Artifact typologies indicate the site dates to circa A.D. 750–1150 suggesting a Mimbres-Mogollon cultural affiliation.

Berrenda Creek (LA 12992)—In 1976, human remains representing, at minimum, eight individuals were removed by a New Mexico State University field school directed by J.R. Gomolak and Dabney Ford from the Berrenda Creek site Sierra County, NM. The site is on land managed by the Gila

NF. No known individuals were identified. The 107 associated funerary objects include four shell bracelets, one turquoise bead, one mineral sample, two manos, two metates, two flagstones, 72 shell beads, one shell strand, one shell pendant, two turquoise pendants, four snail shells, three Classic Mimbres Black-on-white ceramic bowls, three soil samples, eight pollen samples, and one carbon sample. Cultural items associated with the individuals are diagnostic of Mimbres-Mogollon cultural traditions. Habitation of the Berrenda Creek site dates from approximately A.D. 1000 to 1350.

Breland Co-mingled—Human remains representing, at minimum, 138 individuals were removed from unknown locations in New Mexico. The Breland Co-mingle is a research collection of New Mexico State University's Department of Anthropology that is made up of various elements from multiple human remains that have no known provenience. No known individuals were identified. The 122 associated funerary objects include potsherds consisting of black-on-white ceramic fragments, ceramic sherds, ceramic bowls, sandstone tools, polished bone, stone flakes, pebbles, and charcoal fragments. Artifact typologies indicate the individuals are from multiple sites within New Mexico and may date to between A.D. 750 and A.D.1450.

Camien—In 1950, human remains representing, at minimum, one individual were donated to the University Museum by Professor Emeritus, Laiten L. Camien. Notes associated with the collection indicate that the individual was removed at an unknown date from a rock shelter in Pickett Spring Canyon near Kingston in Sierra County, NM. No known individual was identified. No associated funerary objects are present. There is insufficient information to estimate the age of the human remains.

Chavez Cave (LA 5220)—Prior to 1977, human remains representing, at minimum, one individual were removed by private individuals from Chavez Cave near Las Cruces, Doña Ana County, NM. The site is on land managed by the BLM. The human remains were donated to the University Museum in 1976. No known individual was identified. No associated funerary objects are present. Mogollon habitation of Doña Ana County generally dates between approximately A.D. 200 and 1400–1450.

Cox Ranch (LA 923)—Human remains representing, at minimum, 30 individuals were removed during a survey along a drainage system from the Black Range, east of the Continental Divide and west of Truth or Consequences, Sierra County, NM. No known individuals were identified. The 96 associated funerary objects include one bag of corn cob fragments, 23 lithic fragments, one metate, one mano, three stone tools, one shell bead, one donut stone, one bone needle fragment, one bone tool, one lump, one lot of red ochre, one lump white ochre, 17 lithic flakes, one projectile point, and 42 potsherds. Cultural items excavated from the Cox Ranch site are diagnostic of Mimbres-Mogollon cultural traditions. Habitation of the Cox site dates from approximately A.D. 1000 to 1175.

Dines Site—At an unknown date, human remains representing, at minimum, one individual were donated to the University Museum. No known individual was identified. Records indicate the individual was recovered from private land. No report with exact location coordinates or history of the collection is available. The 100 associated funerary objects include 25 lithic flakes and tools, one metate fragment, 53 potsherds consisting of brownware and redware ceramic sherds, four Gila Polychrome ceramic sherds, one Playas Red ceramic sherd, five Chupadero Black-on-white sherds, seven Mimbres and Reserve style corrugated sherds, and four indented corrugated ceramic sherds. Cultural items associated with the individual are diagnostic of Mimbres-Mogollon and Salado cultural traditions. Artifact typologies indicate the Dines site dates between A.D. 750 and 1350.

Fort Cummings (LA 6900)—In 1989, human remains representing, at minimum, one individual were removed from Dr. Edward Staski and New Mexico State University students from Fort Cummings, Luna County, NM. The individual is known to have been removed from the portion of the site that is on land managed by the BLM. No known individual was identified. The two associated funerary objects are one partial stone bead and one ceramic sherd of San Francisco Red. The ceramic sherd is representative of Mimbres-Mogollon ceramic traditions. Mimbres-Mogollon habitation of Luna County generally dates from approximately A.D 200 to 1150.

Garfield/Rio Vista (LA 1082)—In 1973, human remains representing, at minimum, two individuals were removed by Dr. Stanley Bussey and New Mexico State University students from the Garfield/Rio Vista site, Sierra County, NM. The individuals are known to have been removed from the portion of the site that is on land managed by the BLM. The human remains were accessioned by the University Museum in 1992. No known individuals were identified. The 152 associated funerary objects include one white pendant fragment, 53 black/white potsherds, 32 restorable potsherds, 21 random potsherds, one red-on-white rim sherd, nine carbon and charcoal fragments, 31 animal bones, three pieces of adobe, and one indeterminate plainware sherd. Cultural items associated with the individuals are diagnostic of Mimbres-Mogollon cultural traditions. Habitation of the Garfield/Rio Vista site dates from approximately A.D. 600 to 1150.

Gila National Forest Survey—In the 1970s, human remains representing, at minimum, six individuals were removed from an unknown number of sites managed by the Gila NF. No known individuals were identified. The removal of the individuals was connected to a group of surveys undertaken in the 1970s on various parcels of land within the Gila NF. The University Museum has no information regarding the exact location of the surveys or the findings associated with that survey. The eight associated funerary objects include one mineral specimen, one fossil shell, one obsidian flake, one obsidian projectile point, one ceramic handle, two rim sherds, and one maize corn cob. There is not sufficient information to make a reasonable estimate of the age of the individuals other than prehistoric.

Kilburn—At an unknown date, human remains representing, at minimum, one individual were donated to the University Museum. No known individuals were identified. No associated funerary objects are present. No report was found associated with the Kilburn human remains, so exact location coordinates is unknown.

Kingston Pueblo—At an unknown date, human remains representing, at minimum, of one individual were removed by students of Dr. El-Najjar at New Mexico State University from Kingston Pueblo in Sierra County, NM. No known individuals were identified. No associated funerary objects are present. Internal museum records note that the Kingston Pueblo site is of Mimbres-Mogollon affiliation and dates from between A.D. 1000 and 1150/1200.

Los Tules (LA 16315)—In 1980, human remains representing, at minimum, one individual were removed by Dr. Mahmoud El-Najjar and New Mexico State University students from the Los Tules site in Doña Ana County, NM. The individual is known to have been removed from the portion of the site that is on land managed by the BLM. The human remains were

accessioned by the University Museum in 1985. No known individuals were identified. The 105 associated funerary objects include two lithic flakes, one obsidian projectile point, 101 animal bone fragments, and one piece of yellow ochre. Cultural items excavated from Los Tules are diagnostic of Jornada-Mogollon cultural traditions. Jornada-Mogollon habitation of the Los Tules site dates from approximately A.D. 750 to 1100.

Peña Blanca Shelter (LA 2891)—In the 1980s, human remains representing, at minimum, one individual were removed by Dr. Steadman Upham and New Mexico State University students from the Peña Blanca Shelter, Doña Ana County, NM. The site is on land managed by the BLM. The human remains were accessioned by the University Museum in 1985. No known individuals were identified. No associated funerary objects are present. Cultural items excavated from the Peña Blanca shelter are diagnostic of Jornada-Mogollon cultural traditions. Jornada-Mogollon habitation of the site dates from approximately A.D. 578 to 1420.

Roth Site (LA 73942)—Human remains representing, at minimum, seven individuals were removed from the Roth site, of which, five human remains are currently missing from the collection. In 1976, human remains representing a minimum of five individuals were removed from the Roth site by individuals associated with the El Paso Archaeological Society, but it is unknown where these human remains are. In 1982, human remains representing a minimum of two individuals were removed from the site as part of a New Mexico State University field school directed by Dr. Fred Plog. No known individuals were identified. The University Museum continues to look for the missing five individuals. The 78 associated funerary objects consist of one carbon sample, one sand sample, one soil sample, two pollen samples, 38 potsherds, 28 lithic fragments, and seven beads. The associated funerary objects are diagnostic of Jornada-Mogollon cultural traditions. Artifact typologies indicate the Jornada-Mogollon habitation of the site dates between A.D. 1200 and 1300.

Ruidoso—In 1988, human remains representing, at minimum, two individuals were removed from Gonzales Farm near Ruidoso, Lincoln County, NM. It is unknown if the two individuals were recovered from the same site near Ruidoso. No known individuals were identified. The 31 associated funerary objects include 25 Alma Plain ceramic sherds, one San Francisco Red sherd, and five animal remains. The associated funerary objects are diagnostic of Jornada-Mogollon cultural traditions. Artifact typologies indicate the two individuals date to between A.D. 400 and 1200.

Sheriff Donor—In 1967, human remains representing, at minimum, six individuals were donated to the University Museum as part of a general collection by Mr. Robert Sheriff. No provenience information was provided in the donation documentation. All human remains were identified as prehistoric Native Americans. No known individuals were identified. No associated funerary objects are present.

Sonrisa Shelter (LA 104568)—In the 1980s, human remains representing, at minimum, one individual were removed by Dr. Steadman Upham and New Mexico State University students from Sonrisa Shelter, Doña Ana County, NM. The site is on land managed by the BLM. The human remains were accessioned by the University Museum in 1985. No known individual was identified. No associated funerary objects are present. Cultural items excavated from the Sonrisa Shelter are diagnostic of Archaic period cultural traditions. Archaic habitation of the site dates from approximately 1125 B.C. to 652 B.C.

Springerville (AZE 8–10)—In 1975, human remains representing, at minimum, five individuals were removed by a New Mexico State University field school under Dr. Stanley Bussey from several small Mogollon sites near Springerville, Apache County, AZ. The selected Mogollon sites are near the junction of the Cibola, Black River, and Mimbres River Branches, AZ and are on lands managed by the Apache Sitgreaves NF. No known individuals were identified. The 46 associated funerary objects include four miscellaneous ceramic sherds, 24 black-on-red sherds, one black-on-white vessel handle, 13 black-on-red bowl fragments, one paho stick with three pieces, one wood pendant, one canine tooth, and one soil sample. The sites are designated Ancestral Pueblo. Artifact typologies indicate the sites date between A.D. 950 to 1150.

Tennant—At an unknown date, human remains representing, at minimum, one individual were removed from Otero County, NM, and subsequently came into the possession of the University Museum. No known individual was identified. No associated funerary objects are present. No report was found associated with the Tennant site.

Three Rivers (LA 4921)—Human remains representing, at minimum, six individuals were removed from the Three Rivers site. In 1975, human remains representing a minimum of three individuals along with three lots of artifacts from the Three Rivers site were loaned to the University Museum by the BLM. In 1976, human remains representing a minimum of three individuals were removed from the Three Rivers site by New Mexico University personnel with assistance from the U.S. Youth Conservation Corp. The human remains were accessioned by the University Museum in 1975 and 1984. No known individuals were identified. The 93 associated funerary objects include a San Andres Broadline Red-on-Terracotta bowl, a groundstone mano, two ceramic handles, five projectile points, five pieces of lithic debitage, 43 ceramic sherds of Chupadero Black-on-white, indeterminate El Paso brownware,16 Red-on-Terracotta bowl fragments, one green schist bar, 14 animal bones, one carbon sample of unknown material, one Alma plainware sherd, one lithic fragment, and two animal bones. Cultural items excavated from the Three Rivers site are diagnostic of Jornada-Mogollon cultural traditions. Jornada-Mogollon habitation of the site dates from approximately A.D. 500 to 1400–1450.

Thorn Shelter (LA 104565)—In the 1980s, human remains representing, at minimum, one individual were removed by Dr. Steadman Upham and New Mexico State University students from Thorn Shelter, Doña Ana County, NM. The site is on land managed by the BLM. The human remains were accessioned by the University Museum in 1990. No known individual was identified. The four associated funerary objects are fragments of a rabbit fur cordage blanket. Cultural items excavated from the Thorn Shelter are diagnostic of Jornada-Mogollon cultural traditions. Jornada-Mogollon habitation of the site dates from approximately A.D. 700 to 1420.

Unknown Donors—At an unknown date, human remains representing, at minimum, 61 individuals were donated to the University Museum. No known individuals were identified. These individuals and associated funerary objects have no known provenience, and there is no information regarding the original donation. The 91 associated funerary objects include three rim sherds, four ''killed'' Mimbres bowls, 10 Mimbres bowls, 13 Mimbres sherds, 21 potsherds, four Mimbres whiteware sherds, three Alma Plain sherds, one ceramic handle, 17 stone flakes, one sandstone sphere, one yucca sandal, one corn cob, and 12 clay samples. The associated funerary objects are

diagnostic of Mimbres-Mogollon cultural traditions.

White Sands Missile Range—In 1978, human remains representing, at minimum, two individuals were received by Dr. Mahmoud El-Najjar of New Mexico State University and at some point, placed in the University Museum. The only information about the human remains comes from a handwritten note found in the records. It indicates the following: ''Jim'' from the Office of Installation/Command at White Sands Missile Range had found two cranial fragments on a grated road on the range and turned them into the Fairacres Post Office. The exact location of the human remains was not indicated but likely originate from some location in Doña Ana, Otero, or Sierra Counties, NM. The notes further indicate the human remains were from two Native American individuals. No known individuals were identified. No associated funerary objects were present.

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: anthropological information, archeological information, and information derived during consultation.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the New Mexico State University Museum, Bureau of Land Management, Apache-Sitgreaves National Forest, and Gila National Forest have determined that:

- The human remains described in this notice represent the physical remains of 288 individuals.
- The 1,079 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 Comanche Nation, Oklahoma; Hopi Tribe of Arizona; Navajo Nation, Arizona; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Tesuque, New Mexico; Santo Domingo Pueblo (*previously* listed as Kewa Pueblo, New Mexico, and as Pueblo of Santo Domingo); White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Ysleta del Sur Pueblo (*previously* listed as Ysleta Del Sur Pueblo of Texas); 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 the **FOR FURTHER INFORMATION CONTACT** section. 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 February 13, 2023. If competing requests for repatriation are received, the museum or federal agency in control of the human remains University Museum; BLM; Gila NF or Apache Sitgreaves NF) 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 Museum 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: January 4, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–00464 Filed 1–11–23; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–703 (Fifth Review)]

Furfuryl Alcohol From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on furfuryl alcohol from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: October 4, 2022.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On October 4, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 39559, July 1, 2022) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for this review on January 13, 2023. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before January 23, 2023 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by January 23, 2023. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 9, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2023–00492 Filed 1–11–23; 8:45 am]

BILLING CODE 7020–02–P

[2] The Commission has found the response submitted on behalf of Penn A Kem LLC, a domestic producer of furfuryl alcohol, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On December 16, 2022, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Jersey in *United States* v. *Alden Leeds, Inc., et al.,* Civil Action No. 2:22–cv–07326. The proposed Consent Decree resolves the United States' claim against 85 defendants under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9607(a), relating to Operable Unit 2 and Operable Unit 4 of the Diamond Alkali Superfund Site (''Site'') in New Jersey.

In the proposed Consent Decree, the 85 Settling Defendants agree to pay $150 million in cleanup costs. EPA Region 2's estimated future cleanup costs for Operable Unit 2 and Operable Unit 4 of the Site are $1.82 billion. EPA sponsored an allocation process, which involved hiring a third party neutral to perform an allocation. The process concluded in December 2020 with a Final Allocation Recommendation Report that recommends relative shares of responsibility for each allocation party's facility or facilities evaluated in the allocation. After review of the Final Allocation Recommendation Report, EPA identified the parties who were eligible to participate in the proposed Consent Decree. Based on the results of the allocation, the United States concluded that the Settling Defendants, individually and collectively, are responsible for a minor share of the response costs incurred and to be incurred at or in connection with the cleanup of Operable Unit 2 and Operable Unit 4, for releases from the facilities identified in the proposed Consent Decree. Certain Settling Defendants had previously resolved their liability for Operable Unit 2, and so were not evaluated in the allocation, but are participating in the proposed Consent Decree in order to resolve their liability for Operable Unit 4. The Consent Decree includes covenants not to sue related to Operable Unit 2 and Operable Unit 4 under sections 106 and 107(a) of CERCLA, as well as contribution protection under section 113 of CERCLA. The consent decree does not include reopeners for previously unknown conditions or information, or for cost overruns, but the settlement amount collectively paid by the Setting Defendants protects against the risk that future costs will exceed EPA's estimate of the future cleanup costs for Operable Unit 2 and Operable Unit 4.

On December 22, 2022, the Department of Justice published a notice in the **Federal Register** opening a public comment period on the consent decree for a period of forty-five (45) days. 87 FR 78711. By this notice, the Department of Justice is extending the public comment by an additional forty-five (45) days, through March 22, 2023. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Alden Leeds, Inc., et al.,* Civil Action No. 2:22–cv–07326, D.J. Ref. No. 90–11–3–07683/1. All comments must be submitted no later than March 22, 2023. 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 proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed modification 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 $36.25 (25 cents per page reproduction cost) payable to the United States Treasury. In addition, the Final Allocation Recommendation Report

may be examined at this EPA website: *https://semspub.epa.gov/src/collection/02/SC41378.*

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–00530 Filed 1–11–23; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under the Clean Air Act and Other Statutes

On January 6, 2023, the Department of Justice lodged a proposed Agreement and Order Regarding Modification of Consent Decree (''Agreement and Order'') with the United States District Court for the Eastern District of Texas in the lawsuit entitled *United States and State of Texas* v. *E.I. du Pont de Nemours and Company and Performance Materials NA, Inc.,* Case No. 1:21–cv–00516–MJT. The original Consent Decree was entered by the Court on January 28, 2022, and it requires the settling defendants to implement injunctive relief at an ethylene production facility located in Orange, Texas.

The proposed Agreement and Order modifies one injunctive relief requirement of the original Consent Decree to provide for use of an alternative control technology to reduce benzene emissions to air at certain locations within the facility. Specifically, the proposed modification would change the control requirement for benzene waste emissions at two locations to the use of a thermal oxidizer as the primary control technology. Carbon canisters operated in series would not be used at these locations. There are no other changes to the original Consent Decree.

The publication of this notice opens a period for public comment on the proposed Agreement and Order. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to entitled *United States and State of Texas* v. *E.I. du Pont de Nemours and Company and Performance Materials NA, Inc.,* Case No. 1:21–cv–00516–MJT, D.J. Ref. No. 90–7–1–10173. 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 Agreement and Order may be examined and downloaded at this Justice Department website: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Agreement and Order 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 $3.00 (25 cents per page reproduction cost) for the proposed Agreement and Order, payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–00438 Filed 1–11–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0144]

Proposed Extension of Information Collection; Mine Rescue Teams; Arrangements for Emergency Medical Assistance and Transportation for Injured Persons; Agreements; Reporting Requirements; Posting Requirements

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Mine Rescue Teams; Arrangements for Emergency Medical Assistance and Transportation for Injured Persons; Agreements; Reporting Requirements; Posting Requirements.

DATES: All comments must be received on or before March 13, 2023.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2022–0064.
- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

30 CFR part 49 subpart A, Mine Rescue Teams for Underground Metal and Nonmetal (MNM) Mines, requires every operator of an underground mine to assure the availability of mine rescue capability for purposes of emergency rescue and recovery. This collection of information relates to the availability of mine rescue teams; alternate mine rescue capability for small and remote

mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for team members and alternates; and experience and training requirements for team members and alternates. 30 CFR part 49 subpart A includes sections §§ 49.1–49.9 for MNM mine operators.

30 CFR 49.2 (Availability of mine rescue teams) requires each operator of an underground metal and non-metal mine to send the District Manager a statement describing the mine's method of compliance with this standard.

30 CFR 49.3 (Alternative mine rescue capability for small and remote mines) provides that operators of small and remote mines may submit an application for alternative mine rescue capability to MSHA for approval.

30 CFR 49.4 (Alternative mine rescue capability for special mining conditions) provides that operators of small and remote mines may submit an application for special mining conditions capability to MSHA for approval.

30 CFR 49.5 (Mine rescue station) provides that operators of an underground metal and nonmental mine shall designate, in advance, the location of the mine rescue station serving the mine. Mine rescue stations are to provide a centralized storage location for rescue equipment. This centralized storage location may be either at the mine site, affiliated mines, or a separate mine rescue structure. Mine rescue stations shall provide a proper storage environment to assure equipment readiness for immediate use.

30 CFR 49.6 (Equipment and maintenance requirements) requires that a person trained in the use and care of a breathing apparatus must inspect and test the apparatus at intervals not exceeding 30 days and must certify by signature and date that the required inspections and tests were done, and record any corrective action taken.

30 CFR 49.7 (Physical requirements for mine rescue team) requires that each member of a mine rescue team be examined annually by a physician who must certify that each person is physically fit to perform mine rescue and recovery work.

30 CFR 49.8 (Training for mine rescue teams) requires that a record of the training received by each mine rescue team member be made and kept on file at the mine rescue station for a period of 1 year. The operator must provide the District Manager information concerning the schedule of upcoming training when requested.

30 CFR 49.9 (Mine emergency notification plan) requires that each mine have a mine rescue notification plan outlining the procedures to be followed in notifying the mine rescue teams when there is an emergency that requires their services.

30 CFR part 49 subpart B Mine Rescue Teams for Underground Coal Mines, sets standards related to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for mine rescue team members and alternates; and experience and training requirements for team members and alternates. The collection of information under 30 CFR part 49, subpart B, covers the following requirements for underground coal mines. 30 CFR part 49 subpart B includes sections §§ 49.11–49.60 for coal mine operators.

30 CFR 49.12 (Availability of mine rescue teams) requires each operator of an underground coal mine to send the District Manager a statement describing the mine's method of compliance with this standard.

30 CFR 49.13 (Alternative mine rescue capability for small and remote mines) provides that operators of small and remote mines may submit an application for alternative mine rescue capability to MSHA for approval.

30 CFR 49.16 (Equipment and maintenance requirements) requires that a person trained in the use and care of a breathing apparatus must inspect and test the apparatus at intervals not exceeding 30 days and must certify by signature and date that the required inspections and tests were done, and record any corrective action taken.

30 CFR 49.17 (Physical requirements for mine rescue team) requires that each member of a mine rescue team be examined annually by a physician who must certify that each person is physically fit to perform mine rescue and recovery work.

30 CFR 49.18 (Training for mine rescue teams) requires that a record of the training received by each mine rescue team member be made and kept on file at the mine rescue station for a period of 1 year. The operator must provide the District Manager information concerning the schedule of upcoming training when requested.

30 CFR 49.19 (Mine emergency notification plan) requires that each mine have a mine rescue notification plan outlining the procedures to be followed in notifying the mine rescue teams when there is an emergency that requires their services.

30 CFR 49.50 (Certification of coal mine rescue teams) requires underground coal mine operators to certify that each designated coal mine rescue team meets the requirements of 30 CFR part 49 subpart B.

30 CFR 75.1713–1 and 77.1702 (Arrangements for emergency medical assistance and transportation for injured persons; agreements; reporting requirements; posting requirements) require coal mine operators to make arrangements for 24-hour emergency medical assistance and transportation for injured persons and to post this information at appropriate places at the mine, including the names, titles, addresses, and telephone numbers of all persons or services currently available under those arrangements.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Mine Rescue Teams; Arrangements for Emergency Medical Assistance and Transportation for Injured Persons; Agreements; Reporting Requirements; Posting Requirements. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's

COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Mine Rescue Teams; Arrangements for Emergency Medical Assistance and Transportation for Injured Persons; Agreements; Reporting Requirements; Posting Requirements. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Revision of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0144.

Affected Public: Business or other for-profit.

Number of Respondents: 362.

Frequency: On occasion.

Number of Responses: 30,463.

Annual Burden Hours: 5,106 hours.

Annual Respondent or Recordkeeper Cost: $265.

MSHA Forms: MSHA Form 2000–224, Operator's Annual Certification of Mine Rescue Team Qualifications And MSHA Form 5000–3, Certificate of Physical Qualification for Mine Rescue Work.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Song-ae Aromie Noe,

Certifying Officer.

[FR Doc. 2023–00419 Filed 1–11–23; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) Committee on Oversight hereby gives notice of the scheduling of a videoconference meeting for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Wednesday, January 18, 2023, from 10:30—11:30 p.m. EST.

PLACE: This meeting will be held by videoconference through the National Science Foundation.

STATUS: Open.

MATTERS TO BE CONSIDERED: The agenda of the meeting is: Committee Chair's opening remarks; Presentations and Discussion of NSF's Established Program to Stimulate Competitive Research (EPSCoR); Committee Chair's closing remarks.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: (Chris Blair, *cblair@nsf.gov*), 703/292–7000. Members of the public can observe this meeting through a You Tube livestream. The YouTube link is *https://www.youtube.com/watch?v=Y34T58VNE1M.*

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2023–00627 Filed 1–10–23; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–205, 50–361, and 50–362; NRC–2022–0219]

Southern California Edison; San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a December 16, 2021, request from Southern California Edison, as supplemented on February 28 and September 29, 2022, that would allow the licensee to establish the Controlled Area Boundary (CAB) for the San Onofre Nuclear Generating Station (SONGS) independent spent fuel storage installation (ISFSI) at a distance less than 100 meters from the ISFSI as required by NRC regulation.

DATES: The exemption was issued on January 5, 2023, and was effective upon issuance.

ADDRESSES: Please refer to Docket ID NRC–2022–0219 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0219. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6822, email: *Amy.Snyder@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: January 6, 2023.

For the Nuclear Regulatory Commission.

Shaun M. Anderson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

Nuclear Regulatory Commission

Docket Nos. 50–205, 50–361, and 50–362

Southern California Edison

San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3

Exemption From a Specific 10 CFR 72.106(b) Independent Spent Fuel Storage Installation Requirement

I. Background

San Onofre Nuclear Generating Station (SONGS), Units 1, 2, and 3, are licensed to Southern California Edison (SCE) [1] under part 50, ''Domestic

[1] SONGS is jointly owned by SCE (78.21 percent), San Diego Gas & Electric (20 percent), and the city

Licensing of Production and Utilization Facilities,'' of title 10 of the Code of Federal Regulations (10 CFR) (U.S. Nuclear Regulatory Commission (NRC) license nos. DPR–13, NPF–10, and NPF–15, respectively, and docket nos. 50–206, 50–361, and 50–362, respectively). SONGS Units 1, 2, and 3 are decommissioning nuclear power reactor units located 4 miles southeast of San Clemente, California, in San Diego County, California, approximately 62 miles southeast of Los Angeles, and approximately 51 miles northwest of San Diego, on an 84-acre site located entirely within the Camp Pendleton Marine Corps Base.

II. Request/Action

On December 16, 2021 (Agencywide Documents Access and Management System (ADAMS) Package Accession No. ML21355A245), SCE submitted a request, as supplemented on February 28, 2022 (ML22062B028), and September 29, 2022 (ML22277A016), for an exemption from a requirement of paragraph (b) of Section 72.106, ''Controlled area of an [independent spent fuel storage installation] ISFSI or [monitored retrievable storage installation] MRS,'' for the SONGS ISFSI. In the request, SCE states that it wishes to establish the ISFSI Controlled Area Boundary (CAB) at or within the site boundary, which coincides with physical boundaries that in some places are less than the 100 meters from the ISFSI required by 10 CFR 72.106(b). Specifically, SCE indicated that the areas that would be less than 100 meters from the ISFSI would be the North Industrial Area seawall to the west of the ISFSI and the Owner Controlled Area fence line to the east of the ISFSI.

SCE is requesting the exemption in response to a lease condition granted by the California State Lands Commission (CSLC) in 2019 in relation to the land upon which the ISFSI is situated. Specifically, Lease Condition 32 states:

At the conclusion of the transfer of the SONGS spent nuclear fuel to the Approved Independent Spent Fuel Storage Installation (Approved ISFSI), the Lessee shall seek approval from the NRC to decrease the size of the Exclusion Area Boundary (EAB) to the minimum required by law. Lessee and Lessor shall jointly consult with the California Coastal Commission (CCC) to ensure that such an approval, if granted, will not interfere with the Lessee's compliance with the CCC permit conditions.

To meet the lease condition, SCE would pursue the disestablishment of the EAB in accordance with 10 CFR 50.59, ''Changes, tests, and experiments,'' which allows reactor licensees to make certain changes without prior NRC approval. Since SONGS has permanently ceased reactor operations in Unit 2 and 3, an EAB is no longer required to be maintained. If this change meets the requirements of 10 CFR 50.59, SCE would reflect removal of the EAB in the SONGS final safety analysis report. While compliance with this lease condition only requires an attempt to decrease the size of the EAB, SCE states that an exemption to 10 CFR 72.106(b) to decrease the size of the SONGS ISFSI CAB will also serve the public's interest related to beach access. However, the public already has full access to the beach area, the bluff overlooking the ISFSI, and the Pacific Ocean on the seaward side of SONGS. These public thoroughfares are allowed in accordance with 10 CFR 72.106(c). However, SCE has an agreement with Camp Pendleton, the State of California, and local agencies to restrict public access to these areas and thoroughfares during an emergency such as a hostile action, natural disaster, or fire.

If the exemption is approved, SCE would modify their agreements with the Camp Pendleton, State of California, or local agencies to respond and perform duties within the ISFSI CAB under emergency conditions because SCE would no longer control areas beyond their site boundary. However, in any emergency, first responders would likely secure access to the beach area based upon the circumstances, to protect the public in the event of an emergency.

Paragraph (b) of 10 CFR 72.106 requires that any individual located on or beyond the nearest boundary of the controlled area may not receive from any design basis accident the more limiting of a total effective dose equivalent of 0.05 Sieverts (Sv) (5 roentgen equivalent man (rem)), or the sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue (other than the lens of the eye) of 0.5 Sv (50 rem). The lens dose equivalent may not exceed 0.15 Sv (15 rem) and the shallow dose equivalent to skin or any extremity may not exceed 0.5 Sv (50 rem). The minimum distance from the spent fuel, high-level radioactive waste, or reactor-related Greater Than Class C (GTCC) waste handling and storage facilities to the nearest boundary of the controlled area must be at least 100 meters.

Under the provisions of 10 CFR 72.7, ''Specific exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of 10 CFR 72.106(b) as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

III. Discussion

A. The Exemption Is Authorized by Law

The NRC regulations in 10 CFR 72.7 allow the Commission to grant exemptions from the requirements of the regulations in 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' if it determines, among other things that the exemption would be authorized by law. There are no provisions in the Atomic Energy Act of 1954, as amended (or in any other Federal statute) that impose a requirement to maintain the ISFSI controlled area boundary at a specific distance. Therefore, the NRC concludes that there is no statutory prohibition on the issuance of the requested exemption and the NRC is authorized to grant the exemption by law.

B. The Exemption Will Not Endanger Life or Property or the Common Defense and Security

The regulation at 10 CFR 72.106(b) establishes specific dose constraints for the ISFSI CAB to protect the public, and requires that the CAB be located at a minimum distance of 100 meters. To support its request for an exemption from this minimum distance, SCE provided calculations and direct radiation measurements to demonstrate that the dose limits during normal operations and anticipated occurrences under paragraph (a) of 10 CFR 72.104, ''Criteria for radioactive materials in effluents and direct radiation from an ISFSI or MRS,'' and during design basis accidents under 10 CFR 72.106(b), are still met at a reduced ISFSI CAB distance.

In order to estimate the radiation dose at the modified SONGS ISFSI CAB, the licensee performed analyses for the SONGS ISFSI to calculate the dose from possible releases at multiple locations along the modified CAB. These shielding analyses included dose contributions from SONGS Units 1, 2, and 3 fuel stored in Transnuclear (TN) 24PT1 and 24PT4 fuel storage canisters in TN Advanced Horizontal Storage Modules (AHSMs), SONGS Units 1, 2,

of Riverside (1.79 percent). SCE is authorized to act as agent for the other co-owners and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility.

and 3 GTCC waste stored in GTCC waste containers in TN AHSMs, and SONGS Units 2 and 3 fuel stored in Holtec multi-purpose fuel storage canisters inside the vertical ventilated modules (VVMs) of the Holtec UMAX storage system. The licensee also included estimated doses from future canister transfer operations that will occur when canisters are moved from their stored location into certified transportation packages.

The licensee modeled spent fuel in the TN and Holtec storage systems with design basis characteristics for the Westinghouse 14x14 (SONGS Unit 1) and Combustion Engineering 16x16 (SONGS Units 2 and 3) pressurized-water reactor fuel configurations. These design basis characteristics include an initial enrichment of 3.8 percent, burnup of 45 GigaWatt-days per metric ton uranium (GWd/MTU), a cooling time of 10 years for Unit 1 fuel, and a cooling time of 5 years for Units 2 and 3 fuel. The NRC staff finds that these design basis parameters are appropriate for determining doses at the modified SONGS ISFSI CAB. In particular, the cooling times assumed are conservative relative to the actual shut down dates for the three SONGS units (1992 for Unit 1, 2012 for Units 2 and 3), such that the dose at the modified ISFSI CAB is significantly overestimated.

The licensee used the three-dimensional Monte Carlo N-Particle (MCNP) transport code to estimate doses around the SONGS ISFSI due to stored Units 1, 2, and 3 fuel, GTCC, and future canister transfer operations, as discussed in SCE Calculation SO1–207–1–C116, Revision 2, ''Modified Control Area Boundary ISFSI Dose Calculation'' (ML22062B039). The dose points considered in the licensee's analysis are shown in Figure 1.2 of SO1–207–1–C116 and are either at or beyond the modified SONGS ISFSI CAB. The dose points of primary interest for this exemption request are dose points 29, 30, 31, and 40, which are all on the seawall closest to the fuel stored in Holtec UMAX storage systems. The closest of these dose points is 38 meters from the nearest UMAX storage system.

The licensee assumed occupancy factors that estimate the amount of time a member of the public may be present in modeled dose locations. The occupancy factors assumed by the licensee for this analysis are summarized in Table 2.2.1 of SO1–207–1–C116 and are based on Enclosure 1 to the SCE letter dated September 29, 2022, ''Occupancy Factors at San Onofre Owner Controlled Area Boundaries.'' This document states that areas near the facility to the north, east, and south of the facility are inhospitable, and unlikely to be accessed by any member of the public for any significant amount of time. The beach area to the west of the facility is unlikely to be accessed by any member of the public for any significant amount of time due to the terrain and vegetation, and the licensee assumes a member of the public may be present there for 300 hours out of a year.

The licensee also notes that due to beach erosion and the placement of additional riprap to protect the facility seawall, this area is likely less attractive to members of the public than more accessible beaches nearby, meaning that the estimate of 300 hours of yearly occupancy is likely conservative. The NRC staff finds that the assumed occupancy factors are acceptable for the calculation of modified SONGS ISFSI CAB dose during normal operations and anticipated occurrences, since most locations around the modified ISFSI CAB are unlikely to be occupied for a significant amount of time and the applicant has recent direct radiation measurements demonstrating that actual radiation doses at the modified ISFSI CAB under normal operations and anticipated occurrences are less than the 10 CFR 72.104(a) limits for full year occupancy.

The licensee's results for the modified ISFSI CAB annual doses are summarized in Table 3.6.1 of SO1–207–1–C116. The results include dose contributions from stored fuel in both the TN AHSMs and Holtec VVMs, GTCC waste stored in TN AHSMs, and from canister transfer operations for up to 20 transfers per year. The maximum estimated annual dose from these dose contributions at the nearest point on the modified SONGS ISFSI CAB is 22.63 millirem (mrem) (0.2263 millisievert (mSv)) per year. This is less than the 10 CFR 72.104(a) whole body radiation limit of 25 mrem (0.25 mSv) per year.

The licensee also provided recent Annual Radiological Effluent Release Report results from 2020, which included fixed thermo-luminescent dosimeter (TLD) measurements of dose at the limiting location along the proposed modified SONGS ISFSI CAB. The TLD measured doses include contributions from the majority of fuel currently stored, as well as multiple canister transfer operations that occurred in 2020 to move fuel canisters into stored locations. The TLD doses reported by the licensee correspond to a full occupancy (8,760 hours per year) dose of 17.52 mrem (0.1752 mSv), which is less than the 10 CFR 72.104(a) whole body radiation limit of 25 mrem (0.25 mSv) per year. These measured results demonstrate that the licensee's calculations significantly overestimate the modified SONGS ISFSI CAB dose, due to the many conservatisms incorporated into the analysis.

The NRC staff performed independent confirmatory analyses of the modified SONGS ISFSI CAB dose under normal operations and anticipated occurrences. The staff modeled the fuel and GTCC waste using assumptions similar to the licensee's, in terms of initial fuel enrichment, fuel burnup, cooling time, and storage system arrangement. The NRC staff performed confirmatory calculations using the MAVRIC/Monaco sequence of the SCALE 6.2.4 code system. The staff's results are within the calculation uncertainty of the licensee's results, confirming that the licensee's radiation shielding model is appropriate, and that the facility will continue to meet the dose limits for normal operations and anticipated occurrences established under 10 CFR 72.104(a) with a modified ISFSI CAB.

The licensee also evaluated the facility with the modified ISFSI CAB under design basis accidents to ensure that the facility continues to meet the dose limits of 10 CFR 72.106(b). There are no design basis accidents that significantly affect the shielding capabilities of the TN AHSMs or Holtec VVMs or result in a canister release of radioactive material. However, the licensee determined that a loss of water jacket for the Holtec HI–TRAC VW transfer cask could have dose consequences at the modified ISFSI CAB. The licensee provided an analysis of dose versus distance from a loaded HI–TRAC VW transfer cask with the outer water jacket removed. The details of this analysis are contained in Holtec Calculation Hl–2210810, ''SONGS HI–TRAC VW Accident Conditions Dose versus Distance.'' The licensee assumed an accident duration of 30 days, with full time occupancy at the nearest dose location on the modified ISFSI CAB, 38 meters from the transfer cask. The resulting accident dose is 3.87 rem (38.7 mSv), which is less than the 10 CFR 72.106(b) design basis accident dose limit of 5.0 rem (50 mSv).

Based on the results of the licensee's modified SONGS ISFSI CAB dose analysis, and the NRC staff's confirmatory analysis, the staff finds that the doses at the modified ISFSI CAB are below the limits specified during normal operations and anticipated occurrences in 10 CFR 72.104(a), as well as the limits specified during design basis accident conditions in 10 CFR 72.106(b). The evaluation includes appropriate dose analyses for the configurations of SONGS ISFSI features that exist during the different

stages of storage operations, including the impacts of normal, off normal, and accident conditions. The NRC staff reached this finding on the basis of a review that considered the regulation itself, appropriate regulatory guides, applicable codes and standards, accepted engineering practices, the statements and representations in the licensee's amendment request and supporting calculations, and the staff's confirmatory analyses.

The NRC staff has determined that the thermal, structural, criticality, retrievability, and radiation protection requirements of 10 CFR part 72 and the offsite dose limits of 10 CFR part 20, ''Standards for Protection Against Radiation,'' will be maintained. There are no changes proposed in the licensee's exemption request that affect the thermal, structural, criticality, or retrievability functions of the SONGS ISFSI. Due to the potential for the modified ISFSI CAB to affect radiation protection outside of the CAB, the licensee provided an analysis to demonstrate that the dose limits during normal operations and anticipated occurrences under 10 CFR 72.104(a), as well as during postulated design basis accidents under 10 CFR 72.106(b), will not be exceeded. The NRC staff reviewed the licensee's dose analysis and finds that the licensee has shown with reasonable assurance that these regulatory dose limits will not be exceeded for the modified SONGS ISFSI CAB.

Further, the modified SONGS ISFSI CAB does not have any effect on the measures for physical protection at the site, or otherwise require changes to the approved physical security plan. The licensee will continue to maintain its security program in accordance with the security plan, NRC regulations, and applicable security orders.

Accordingly, the NRC staff finds the risk to the public from operation of the SONGS ISFSI with the proposed modified CAB boundaries continues to ensure that public health and safety are not reduced under normal operations, anticipated occurrences, and accident conditions (transfer cask water jacket failure). The same level of safety and security will be maintained for the ISFSI CAB modification proposed by the licensee. Therefore, for these reasons the NRC staff concludes that the exemption presents no undue risk to public health and safety and will not endanger life or property or the common defense and security.

C. The Exemption Is Otherwise in the Interest of the Public

SCE is requesting this exemption in response to a condition of a lease that was granted by the CSLC [2] with the aim of furthering the public interest related to coastal access, including access to the beach and to the walkway that runs alongside the seawall on the seaward side of the SONGS site boundary.

While compliance with the lease condition only requires an attempt to decrease the size of the EAB, the licensee believes that also shrinking the ISFSI CAB to or within the SONGS site boundary will similarly serve the public's interest related to beach access that underlies the lease condition. The proposed SONGS ISFSI CAB would allow the licensee to relinquish all explicit control of areas beyond the site boundary during both normal operations and post-accident conditions. The proposed exemption would also bring the part of the ISFSI CAB that now extends past the beach front into or within the SONGS site boundary, which would allow the licensee to modify an associated land agreement with Camp Pendleton because the licensee will no longer have control of areas beyond the site boundary.

The licensee in its application commits to continue to monitor onsite conditions at the SONGS ISFSI and will maintain procedural requirements to inform Camp Pendleton and other agencies of any emergency declaration so that they may take appropriate action in accordance with their all-hazards emergency plans. Upon NRC approval of this exemption request, the licensee will establish the SONGS ISFSI CAB at or within the site boundary in order to take advantage of physical barriers and associated access controls. Access is currently allowed to the public on the beach walkway and seaward of the walkway, which are the areas that would no longer be within the SONGS ISFSI CAB as a result of this proposed exemption.

The licensee in its application explains that the proposed exemption supports the public interest of increased access to California's natural resources—in this case, the beach, shoreline, and ocean adjacent to the SONGS ISFSI—which was the impetus for CSLC Lease Condition 32. With this approval the licensee can relinquish control of areas that are otherwise subject to control via agreements with various outside entities during off normal and emergency conditions. The licensee states in its application that ''these agreements have been interpreted by some as imposing potential constraints on public access to the beach.'' Furthermore, the licensee states that it has briefed and will continue to brief and consult with the CSLC and CCC regarding the proposed exemption to ensure that its being granted will not interfere with the licensee's compliance with CCC permit conditions.

The NRC staff evaluated the information above and concludes that the exemption is in the interest of the public because it would allow unfettered access to the beachfront during operations at the SONGS ISFSI, to include normal and accident conditions, while still meeting all NRC safety and security regulatory requirements, including the dose limits established in 10 CFR 72.106(b) and 10 CFR 72.104(a).

D. The Environmental Assessment for This Exemption Resulted in a Finding of No Significant Impact

With respect to compliance with section 102(2) of the National Environmental Policy Act, 42 U.S.C. 4332(2) (NEPA), the NRC staff performed an Environmental Assessment.

Based on its review of the exemption request, in accordance with the requirements of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC staff has determined that moving the SONGS ISFSI CAB will not significantly affect the quality of the human environment. Approval of the exemption request would not result in any new construction. The SONGS ISFSI is a passive facility that produces no liquid or gaseous effluents. This exemption will have no effect on the consequences of a hypothetical terrorist attack.

No significant radiological or non-radiological impacts are expected from continued normal operations. Occupational dose estimates associated with the proposed action and continued normal operation and maintenance of the SONGS ISFSI are expected to be at levels that are as low as reasonably achievable (ALARA) and within the limits of 10 CFR 20.1201, ''Occupational dose limits for adults.''

Therefore, pursuant to 10 CFR 51.31, ''Determinations based on environmental assessment,'' the NRC staff has determined that preparation of an environmental impact statement is not required for the proposed action and no further analysis is required under NEPA. Pursuant to 10 CFR 51.32,

[2] California State Lands Commission Lease No. PRC 6785.1 ''SONGS Unit 2 and 3 Offshore Properties,'' Condition 32.

''Finding of no significant impact,'' a Finding of No Significant Impact (FONSI) is appropriate. The Environmental Assessment and FONSI was finalized on December 8, 2022 (ML22341A195) and published in the **Federal Register** on December 28, 2022 (87 FR 79910).

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 72.7, the exemption is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, effective immediately, the Commission hereby grants SCE an exemption from 10 CFR 72.106(b) to reduce the SONGS ISFSI CAB in areas as identified in its application to less than 100 meters.

Dated this 5th day of January 2023.

For the Nuclear Regulatory Commission.

Jane E. Marshall,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–00428 Filed 1–11–23; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96606; File No. SR–IEX–2022–14]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .15 of IEX Rule 5.110 (Supervision)

January 6, 2023.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 23, 2022, the Investors Exchange LLC (''IEX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by IEX. IEX has designated the proposed rule change as constituting a ''non-controversial'' rule change under section 19(b)(3)(A) [4] of the Act and Rule 19b–4(f)(6) [5] thereunder, which renders the proposed rule change effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of section 19(b)(1) under the Act,[6] and Rule 19b–4 thereunder,[7] IEX is filing with the Commission a proposed rule change to amend Supplementary Material .15 of IEX Rule 5.110 (Supervision) to extend the temporary remote inspection relief to IEX Members through the earlier of the effective date of the FINRA pilot program on remote inspections (the ''FINRA Pilot Program'') [8], if approved, or December 31, 2023. The proposed extension would alleviate the ongoing operational challenges resulting from the COVID–19 pandemic that many member firms may continue to face in planning for and timely conducting required on-site inspections at locations requiring inspection in calendar year 2023.

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 these statement may be examined at the places specified in Item IV below. The self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The COVID–19 pandemic has caused a host of operational disruptions to the securities industry and impacted IEX Members,[9] regulators, investors, and other stakeholders. In response to the pandemic, IEX adopted Supplementary Material .15 of IEX Rule 5.110 to provide Members the temporary option of satisfying their inspection obligations for offices of supervisory jurisdiction, branch offices, or non-branch locations under IEX Rule 5.110 (Supervision) remotely for calendar years 2021 and 2022, subject to specified conditions,[10] due to the logistical challenges of going on-site while public health and safety concerns related to COVID–19 persisted. While there are several signs that the pandemic has receded, much uncertainty still remains. The emergence of new variants, dissimilar vaccination rates throughout the U.S., and varying levels of transmissions of the virus all indicate that COVID–19 remains an active and real public health concern. Against this setting, IEX understands the complexity Members face in assessing when and how to effectively and safely recall their employees back into offices alongside fashioning permanent telework arrangements or a hybrid workforce model in which some employees may work on-site in a commercial office space and other employees may work off-site in an alternative location (*e.g.,* a personal residence).[11] Accordingly, due to the continued logistical challenges of going on-site to branch offices or locations while these public health and safety concerns related to COVID–19 persist coupled with several Members delaying their return-to-office plans, IEX believes that extending the temporary remote inspection relief to Members is warranted.

FINRA has filed with the Commission File No. SR–FINRA–2022–021, a proposed rule change to adopt a voluntary, remote inspections pilot program that is currently pending Commission review. The FINRA Pilot Program would provide for a voluntary, three-year remote inspection pilot program to allow broker-dealers to elect to fulfill their obligation under FINRA Rule 3110(c) (Internal Inspections) by conducting inspections of some or all branch offices and non-branch locations remotely without an on-site visit to such office or location, subject to specified

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 240.19b–4.

[8] *See* Securities Exchange Act Release No. 95452 (Aug. 9, 2022), 87 FR 50144 (Aug. 15, 2022) (File No. SR–FINRA–2022–21).

[9] *See* IEX Rule 1.160(s).

[10] *See* Securities Exchange Act Release No. 92222 (June 22, 2021), 86 FR 34069 (June 28, 2021) (SR–IEX–2021–09) (providing remote inspection relief to Members for calendar year 2021), and Securities Exchange Act Release No. 96460 (December 7, 2022), 87 FR 76222 (December 13, 2022) (SR–IEX–2022–12) (providing remote inspection relief to Members for calendar year 2022).

[11] For example, IEX understands that both the Commission and FINRA do not currently require employees to return to the office. *See* SEC Fiscal Year 2022 Agency Financial Report, available at *https://www.sec.gov/files/sec-2022-agency-financial-report.pdf* and *https://www.finra.org/rules-guidance/key-topics/covid-19.*

terms. FINRA has stated that the review period for its rule filing may extend well into 2023. Given the potential length of that review period, and the pilot program's significant planning requirements and varying limitations applicable to specific firms and office locations, FINRA believes that firms that intend to participate in the pilot program, if approved, would need a significant number of months to prepare appropriately for the pilot program. Moreover, further FINRA guidance might be needed to guide implementation in various circumstances.

To provide regulatory certainty while the pilot program filing is pending, and to avoid overlapping provisions if it is approved, IEX is proposing to amend Supplementary Material .15 of Rule 5.110 so that the temporary relief would expire on the earlier of the effective date of the FINRA Pilot Program or December 31, 2023. In the event the FINRA Pilot Program is not approved by December 31, 2023, the proposed rule change will automatically sunset on December 31, 2023. IEX will submit a separate rule filing if it seeks to extend the duration of the temporary proposed rule beyond December 31, 2023. In the event the FINRA Pilot Program is approved prior to December 31, 2023, IEX will file a conforming rule change with the Commission.

The proposed rule change will conform IEX's rules with those of FINRA, which has extended the same temporary remote inspection relief to all FINRA member firms.[12] This proposed extension would provide further clarity to Members on regulatory requirements and account for time needed for many Members to carefully assess when and how to have their employees safely return to their offices considering vaccination coverage in the U.S. and transmission levels of the virus, including any emergent variants throughout the country.

The proposed amendment would provide that Members have the option to conduct remotely those inspections described in Supplementary Material .15 to IEX Rule 5.110 through the earlier of the effective date of the FINRA Pilot program, if approved, or December 31, 2023. IEX is not proposing to amend the other conditions of the temporary relief in Supplementary Material .15 of IEX Rule 5.110. The current conditions of Supplementary Material .15 of IEX Rule 5.110 for Members that elect to conduct remote inspections would remain unchanged: such firms must still amend or supplement their written supervisory procedures for remote inspections, use remote inspections as part of an effective supervisory system, and maintain the required documentation. The additional period of time would also allow IEX to further monitor the effectiveness of remote inspections and their impacts—positive or negative—on Members' overall supervisory systems in the evolving workplace.

IEX continues to believe this temporary remote inspection option is a reasonable alternative to provide to Members to fulfill their IEX Rule 5.110 obligations during the ongoing pandemic, and is designed to achieve the investor protection objectives of the inspection requirements under these unique circumstances. Members should consider whether, under their particular operating conditions, reliance on remote inspections would be reasonable under the circumstances. For example, Members with offices that are open to the public or that are otherwise doing business as usual should consider whether some form of in-person inspections would be feasible and appropriately contribute to a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable IEX rules.

IEX has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so IEX can implement the proposed rule change immediately.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [13] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act [14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange's rule proposal is intended to harmonize IEX's supervision rules, specifically with respect to the requirements for inspections of Members' branch offices and other locations, with those of FINRA, on which they are based. Consequently, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with the Exchange. The proposed rule change would also avoid a potential lapse in the temporary relief while challenges from COVID–19 persist, provide firms regulatory continuity in meeting their inspection obligations during the remaining Commission review period of the Pilot Proposal, and allow firms time to adapt to the pilot program, if approved, and prepare for conducting on-site inspections, as applicable.

In recognition of the impact of COVID–19 on performing on-site inspections, the proposed rule change is intended to provide firms a temporary regulatory option to conduct inspections of offices and locations remotely for calendar year 2023 inspections (or until the effective date of the FINRA pilot program). This proposed supplementary material does not relieve firms from meeting the core regulatory obligation to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable IEX rules that directly serve investor protection. In a time when faced with unique challenges resulting from the COVID–19 pandemic, IEX believes that the proposed rule change provides sensibly tailored relief that will afford firms the ability to observe the recommendations of public health officials to provide for the health and safety of their personnel, while continuing to serve and promote the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue but to align the Exchange's rules with those of FINRA, which will assist FINRA in its oversight work done pursuant to a regulatory services agreement with IEX. The proposed rule change will also provide for consistent application of the Exchange's supervision rules with those of FINRA, on which they are based. Consequently, the Exchange does not

[12] *See* Securities Exchange Act Release No. 94018 (January 20, 2022), 87 FR 4072 (January 26, 2022) (SR–FINRA–2022–001) and Securities Exchange Act Release No. 96241 (November 4, 2022) 87 FR 67969 (November 10, 2022) (SR–FINRA–2022–030).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

believe that the proposed change implicates competition at all.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) [16] thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to harmonize its rules with FINRA, as described herein, upon effectiveness of the proposed rule filing.

IEX has indicated that extending the relief provided in SR–IEX–2022–12 would provide assurances to its member firms that they can plan their 2023 inspection program and conduct remote inspections for any inspections to be conducted through the earlier of the effective date of the FINRA Pilot Program, if approved, or December 31, 2023. Importantly, extending the relief immediately upon filing and without a 30-day operative delay would allow IEX's member firms to continue performing their supervisory obligations, while addressing the ongoing impacts of the COVID–19 pandemic. Moreover, like SR–IEX–2022–12, the proposed extension would provide only temporary relief during the period in which IEX's member firms' operations remain impacted by COVID–19. Thus, the amended rules will revert back to their original state at the conclusion of the temporary relief period and, if applicable, any extension thereof. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposed rule change is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2022–14 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–IEX–2022–14. This file number should be included in 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 will also be available for inspection and copying at IEX's principal office and on its internet website at *www.iextrading.com.* 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–IEX–2022–14 and should be submitted on or before February 2, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–00424 Filed 1–11–23; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–505, OMB Control No. 3235–0562]

Proposed Collection; Comment Request; Extension: Rule 17d–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. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information

summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Section 17(d) (15 U.S.C. 80a–17(d)) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) (the ''Act'') prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d–1 (17 CFR 270.17d–1) prohibits an affiliated person of or principal underwriter for any fund (a ''first-tier affiliate''), or any affiliated person of such person or underwriter (a ''second-tier affiliate''), acting as principal, from participating in or effecting any transaction in connection with a joint enterprise or other joint arrangement in which the fund is a participant, unless prior to entering into the enterprise or arrangement ''an application regarding [the transaction] has been filed with the Commission and has been granted by an order.'' In reviewing the proposed affiliated transaction, the rule provides that the Commission will consider whether the proposal is (i) consistent with the provisions, policies, and purposes of the Act, and (ii) on a basis different from or less advantageous than that of other participants in determining whether to grant an exemptive application for a proposed joint enterprise, joint arrangement, or profit-sharing plan.

Rule 17d–1 also contains a number of exceptions to the requirement that a fund must obtain Commission approval prior to entering into joint transactions or arrangements with affiliates. For example, funds do not have to obtain Commission approval for certain employee compensation plans, certain tax-deferred employee benefit plans, certain transactions involving small business investment companies, the receipt of securities or cash by certain affiliates pursuant to a plan of reorganization, certain arrangements regarding liability insurance policies and transactions with ''portfolio affiliates'' (companies that are affiliated with the fund solely as a result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities) so long as certain other affiliated persons of the fund (*e.g.,* the fund's adviser, persons controlling the fund, and persons under common control with the fund) are not parties to the transaction and do not have a ''financial interest'' in a party to the transaction. The rule excludes from the definition of ''financial interest'' any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for its finding in their meeting minutes.

Thus, the rule contains two filing and recordkeeping requirements that constitute collections of information. First, rule 17d–1 requires funds that wish to engage in a joint transaction or arrangement with affiliates to meet the procedural requirements for obtaining exemptive relief from the rule's prohibition on joint transactions or arrangements involving first- or second-tier affiliates. Second, rule 17d–1 permits a portfolio affiliate to enter into a joint transaction or arrangement with the fund if a prohibited participant has a financial interest that the fund's board determines is not material and records the basis for this finding in their meeting minutes. These requirements of rule 17d–1 are designed to prevent fund insiders from managing funds for their own benefit, rather than for the benefit of the funds' shareholders.

Based on an analysis of past filings, Commission staff estimates that 43 funds file applications under section 17(d) and rule 17d–1 per year. The staff understands that funds that file an application generally obtain assistance from outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. The Commission staff estimates that each applicant will spend an average of 75 hours to comply with the Commission's applications process. The Commission staff therefore estimates the annual burden hours per year for all funds under rule 17d–1's application process to be 3,225 hours at a cost of $1,428,675.[1] The Commission, therefore, requests authorization to reduce the inventory of total burden hours per year for all funds under rule 17d–1 from the current authorized burden of 3,542 hours to 3,225 hours. The reduction is due to a decrease in the Commission's estimate of the number of internal annual burden hours per application for exemptions under rule 17d–1.

As noted above, the Commission staff understands that funds that file an application under rule 17d–1 generally use outside counsel to assist in preparing the application. The staff estimates that, on average, funds spend an additional $53,100 for outside legal services in connection with seeking Commission approval of affiliated joint transactions. Thus, the staff estimates that the total annual cost burden imposed by the exemptive application requirements of rule 17d–1 is $2,283,300.[2]

We estimate that funds currently do not rely on the exemption from the term ''financial interest'' with respect to any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no transactions under rule 17d–1 that will result in this aspect of the collection of information.

Based on these calculations, the total annual hour burden is estimated to be 3,225 hours and the total annual cost burden is estimated to be $2,283,300.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with these collections of information requirement is necessary to obtain the benefit of relying on rule 17d–1. Responses will not be kept confidential. 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

[1] This estimate is based on the following calculation: 75 hours per applicant × $433 wage rate = $33,225. $33,225 × 43 exemption requests per year = $1,428,675. This blended rate is based on the following: $580 (hourly rate for a chief compliance officer); $510 (hourly rate for an assistant general counsel); and $238 (hourly rate for a paralegal). The Commission's estimates of the relevant wage rates are based on the salary information for the securities industry compiled by Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013, as modified by Commission staff (''SIFMA Wage Report''). The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.

[2] This estimated burden is based on the estimated wage rate of $531/hour, for 100 hours, for outside legal services. The Commission's estimates of the relevant wage rates for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation. The estimate is based on the following calculation: $53,100 × 43 exemption requests per year = $2,283,300.

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 March 13, 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, 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: January 6, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–00427 Filed 1–11–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96607; File No. SR–FINRA–2022–033]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend the Codes of Arbitration Procedure To Make Various Clarifying and Technical Changes to the Codes, Including in Response to Recommendations in the Report of Independent Counsel Lowenstein Sandler LLP

January 6, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') (together, ''Codes'') to make changes to provisions relating to the arbitrator list selection process in response to recommendations in the report of independent counsel Lowenstein Sandler LLP. The proposed rule change also makes clarifying and technical changes to requirements in the Codes for holding prehearing conferences and hearing sessions, initiating and responding to claims, motion practice, claim and case dismissals, and providing a hearing record.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background and Discussion

FINRA is proposing to amend the Codes to provide greater transparency and consistency regarding the arbitrator list selection process, and to clarify the application of certain procedures and include expressly these procedures in various rules in the Codes. The proposed rule change would enhance the transparency of the arbitration forum administered by FINRA Dispute Resolution Services (''DRS'').[3]

I. List Selection Process Amendments

In June 2022, FINRA published the report from Lowenstein Sandler LLP relating to an independent review and analysis of the DRS arbitrator list selection process (''Report'').[4] The Report made several recommendations to provide greater transparency and consistency in the arbitrator list selection process, some of which require amendments to the Codes. In response to the recommendations in the Report, FINRA is proposing to amend the Codes to implement the Report's recommendations, as described below.[5]

1. Conflicts of Interest

The Codes provide that a list selection algorithm will randomly generate the ranking lists of arbitrators from the DRS roster of arbitrators,[6] and exclude arbitrators from the lists based upon current conflicts of interest identified within the list selection algorithm.[7] In addition, once the lists are generated, DRS conducts a manual review for other conflicts not identified within the list selection algorithm. This manual review is described on FINRA's website and in rule filings with the SEC, but not in the Codes.[8] The Report recommended that, ''to improve transparency, FINRA should amend Rule 12400 to specifically state that prior to sending the arbitrator list to the parties, NM [DRS's Neutral Management

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FINRA notes that the proposed rule change would impact all members, including members that are funding portals or have elected to be treated as capital acquisition brokers (''CABs''), given that the funding portal and CAB rule sets incorporate the impacted FINRA rules by reference.

[4] *See* FINRA, The Report of the Independent Review of FINRA's Dispute Resolution Services—Arbitrator Selection Process, *https://www.finra.org/sites/default/files/2022-06/report-independent-review-drs-arbitrator-selection-process.pdf.* In February 2022, the Audit Committee of FINRA's Board of Governors engaged independent counsel Lowenstein Sandler LLP to provide a review and analysis in connection with a Fulton County (Georgia) Superior Court decision vacating an arbitration award in favor of Wells Fargo Clearing Services, LLC. *See* Order Granting Mot. to Vacate Arb. Award and Den. Cross Mot. to Confirm Arb. Award at 37, *Leggett* v. *Wells Fargo Clearing Servs., LLC,* No. 2019–CV–328949 (Ga. Super. Ct., January 25, 2022). Since publication of the Report, the Fulton County (Georgia) Superior Court's decision was reversed by the Court of Appeals of Georgia. *See Wells Fargo Clearing Servs.* v. *Leggett,* No. A22A1149, 2022 Ga. App. (Ct. App. August 2, 2022).

[5] Separately, FINRA addressed a recommendation from the Report by making technical, non-substantive changes to the Codes to remove references to the Neutral List Selection System from those rules describing arbitrator list selection and instead refer to a ''list selection algorithm.'' *See* Securities Exchange Act Release No. 95871 (September 22, 2022), 87 FR 58854 (September 28, 2022) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2022–026).

[6] *See* FINRA Rules 12400, 12402, 12403, 13400 and 13406.

[7] *See* FINRA Rules 12402(b), 12403(a)(3), 13403(a)(4) and 13403(b)(4).

[8] *See* FINRA, How Parties Select Arbitrators, *https://www.finra.org/arbitration-mediation/arbitrator-selection. See also* Securities Exchange Act Release No. 40261 (July 24, 1998), 63 FR 40761, 40769 (July 30, 1998) (Notice of Filing of SR–NASD–98–48) (stating that DRS will perform a manual review for conflicts of interests between parties and potential arbitrators); Securities Exchange Act Release No. 40555 (October 21, 1998), 63 FR 56670, 56675 (October 22, 1998) (Order Approving File No. SR–NASD–98–48) (describing the manual review for conflicts of interests between parties and potential arbitrators).

Department] shall conduct a manual review for conflicts of interest.'' [9]

The proposed rule change would amend the Codes to clarify the current practice that the Director will exclude arbitrators from the lists based upon a review of current conflicts of interest not identified within the list selection algorithm.[10] Under the proposed rule change, if an arbitrator is removed based on this conflicts review, consistent with current practice, the list selection algorithm would randomly select an arbitrator to complete the lists.[11]

2. Written Explanation of Director's Decision

The Codes do not require the Director to provide a written explanation when deciding a party-initiated challenge to remove an arbitrator. The Report recommended that, to improve transparency, DRS should consider amending its policies to require a written explanation whenever a challenge to remove an arbitrator is granted or denied, if a written explanation is requested by either party.[12]

Effective September 1, 2022, DRS updated its policy to provide a written explanation whenever a party-initiated challenge to remove an arbitrator is granted or denied, regardless of whether an explanation is requested by either party.[13] To provide transparency and consistency, the proposed rule change would amend the Codes to codify this practice by requiring the Director to provide a written explanation to the parties of the Director's decision to grant or deny a party's request to remove an arbitrator.[14]

3. Challenge To Remove an Arbitrator

Although not a specific recommendation in the Report, the proposed rule change would make an additional clarifying change to provisions in the Codes relating to party-initiated challenges for cause. Specifically, the Codes provide that before the first hearing session begins, the Director may remove an arbitrator for conflict of interest or bias, either upon request of a party or on the Director's own initiative.[15] To help ensure that parties are aware that they may challenge an arbitrator for cause at any point after receipt of the arbitrator ranking lists until the first hearing session begins, the proposed rule change would amend the Codes to clarify that after the Director sends the arbitrator ranking lists generated by the list selection algorithm to the parties, but before the first hearing session begins, the Director may remove an arbitrator for conflict of interest or bias, either upon request of a party or on the Director's own initiative.[16]

II. Procedural Amendments

The Codes include requirements for holding prehearing conferences and hearing sessions, initiating and responding to claims, motion practice, claim and case dismissals, and providing a hearing record. Over the years, DRS has developed practices to help implement these requirements so that arbitration cases are timely and efficiently administered in its forum. The proposed rule change would amend the Codes to incorporate these practices, as described below.

1. Virtual Prehearing Conferences

Under the Codes, prehearing conferences are generally held by telephone.[17] Based on forum users' experiences during the COVID–19 pandemic, they have expressed a preference for holding prehearing conferences by video conference.[18] As a result, effective July 1, 2022, DRS updated its policy so that all prehearing conferences are held by video conference. To provide greater transparency and consistency, the proposed rule change would codify this policy by amending the Codes to provide that prehearing conferences will generally be held by video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session.[19]

In contrast to prehearing conferences, under the Codes, hearings are generally held in person.[20] Forum users have not similarly expressed a preference for making video conference the default for hearings. Accordingly, the proposed rule change would amend the Codes to clarify that hearings will generally be held in person unless the parties agree to, or the panel grants a motion for, another type of hearing session.[21]

2. Virtual Option for Special Proceeding

Arbitrations involving $50,000 or less, called simplified arbitrations, generally are decided by a single arbitrator based on the parties' written submissions, unless the customer requests a hearing.[22] In some cases, however, customers want an opportunity to present their case to the arbitrator without the travel and expenses associated with a full hearing. The

[9] *See* Lowenstein Report at 36, *supra* note 4 (citing to a general rule on the list selection algorithm rather than specific FINRA rules relating to excluding arbitrators from the lists based upon current conflicts of interest identified within the list selection algorithm). *See supra* note 7. FINRA notes that an arbitration case may have three arbitrators. For a three-person panel under the Customer Code, the list selection algorithm generates three lists of arbitrators: one from the FINRA non-public arbitrator roster, another from the FINRA public arbitrator roster, and another from the FINRA chairperson roster. *See* FINRA Rule 12403(a)(1). Under the Industry Code, the number of lists generated for a three-person panel will depend on whether the dispute is between members or between associated persons or between or among members and associated persons. *See* FINRA Rule 13402.

[10] *See* proposed Rules 12402(b)(3), 12403(a)(4), 13403(a)(5) and 13403(b)(5). The term ''Director'' means the Director of DRS. Unless the Codes provide that the Director may not delegate a specific function, the term includes FINRA staff to whom the Director has delegated authority. *See* FINRA Rules 12100(m) and 13100(m).

[11] Potential conflicts include that: the arbitrator is employed by a party to the case; the arbitrator is an immediate family member or relative of a party to the case or a party's counsel; the arbitrator is employed at the same firm as a party to the case; the arbitrator is employed at the same law firm as counsel to a party to the case; the arbitrator is representing a party to the case as counsel; the arbitrator is an account holder with a party to the case; the arbitrator is employed by a member firm that clears through a clearing agent that is a party to the case; or the arbitrator is in litigation with or against a party to the case. DRS may also remove an arbitrator for other reasons affecting the arbitrator's ability to serve, such as if DRS learns the arbitrator has moved out of the hearing location. These potential conflicts, along with a description of the manual review process, are published on FINRA's website. *See* FINRA, How Parties Select Arbitrators, *https://www.finra.org/arbitration-mediation/arbitrator-selection.*

[12] *See* Lowenstein Report at 37, *supra* note 4.

[13] *See* FINRA, Status Report on Lowenstein Sandler LLP Recommendations, *https://www.finra.org/rules-guidance/guidance/reports/report-independent-review-finra-dispute-resolution-services-arbitrator-selection-process.*

[14] *See* proposed Rules 12407(c) and 13410(c).

[15] *See* FINRA Rules 12407(a) and 13410(a).

[16] *See* proposed Rules 12407(a) and 13410(a).

[17] *See, e.g.,* FINRA Rules 12500(b) and 13500(b). A ''prehearing conference'' means any hearing session, including an Initial Prehearing Conference, that takes place before the hearing on the merits begins. *See* FINRA Rules 12100(y) and 13100(w).

[18] While FINRA postponed in-person arbitration hearings and mediation sessions in response to the pandemic, FINRA permitted arbitration hearings and mediation sessions to proceed virtually either by party agreement or arbitration panel order. *See Regulatory Notice* 21–44 (December 2021). On February 22, 2022, DRS began two pilot programs with some prehearing conferences held on the Zoom platform with video and some without video before updating its policy so that all prehearing conferences are held on the Zoom platform with video. *See The Neutral Corner,* ''Pilot Programs: Prehearing Conferences by Zoom,'' Volume 1—2022.

[19] *See* proposed Rules 12500(b), 12501(c) and 12504(a); *see also* proposed Rules 13500(b), 13501(c) and 13504(a).

[20] The term ''hearing'' means the hearing on the merits of an arbitration under Rule 12600. *See* FINRA Rules 12100(o) and 13100(o).

[21] *See* proposed Rules 12600(b) and 13600(b). In addition, the proposed rule change would require the renumbering of paragraphs in the rules impacted by the proposed rule change.

[22] *See* FINRA Rules 12800(a) and 13800(a). Under the Industry Code, the individual filing the claim is referred to as the ''claimant.'' For simplicity in this section, ''customer'' will be used to refer to the individual filing the claim unless otherwise noted.

Codes permit such customers to elect to have an abbreviated telephonic hearing (''special proceeding'').[23] The special proceeding option is intended to ensure that customers have an opportunity to present their case to an arbitrator in a convenient and cost-effective manner without being subject to cross-examination by an opposing party.[24]

Following suggestions from customers that they would prefer also to have the option to have a special proceeding by video conference, FINRA is proposing to amend the Codes to provide customers with this option. Specifically, the proposed rule change would amend the Codes to provide that a special proceeding will be held by video conference, unless the customer requests at least 60 days before the first scheduled hearing that it be held by telephone, or the parties agree to another type of hearing session.[25] Thus, the proposed rule change would make video conference the default for special proceedings; however, customers or claimants would have the option to select a telephonic hearing. The 60 days notification requirement would help ensure that the parties and arbitrator are aware of how the hearing session will be conducted well in advance of the hearing session and can prepare accordingly.

3. Redacting Confidential Information

Under the Codes, when parties submit pleadings and supporting documents to DRS, the parties must redact personal confidential information (''PCI'') such as an individual's Social Security number, taxpayer identification number or financial account number to include only the last four digits of such numbers.[26] This requirement does not apply, however, to claims administered under FINRA's simplified arbitration rules. As discussed above, generally a single arbitrator decides these claims based solely on the parties' written submissions. Many claimants who initiate claims under the simplified arbitration rules are not represented by counsel, *i.e., pro se* customers. FINRA has not applied the redaction requirements to simplified arbitrations due to concerns that the requirements may prove difficult for *pro se* customers.[27]

Due to increasing concerns with customers' identities being used for fraudulent purposes in the securities industry,[28] the proposed rule change would extend the requirement to redact PCI to parties in simplified arbitrations.[29] In addition, if the proposal is approved by the SEC, FINRA will update guidance on its website regarding the steps parties can take to protect PCI, to include guidance to *pro se* parties on the importance of safeguarding PCI and on how to redact PCI from documents filed with DRS.[30]

4. Number of Hearing Sessions per Day

Under the Codes, a ''hearing session'' is any meeting between the parties and arbitrators of four hours or less, including a hearing or a prehearing conference.[31] Arbitrators are paid for each hearing session in which they participate.[32] Currently, some arbitrators have the misunderstanding that they may be compensated for time spent outside of the hearing session, such as on lunch breaks, because the Codes do not specify when the next hearing session begins.

DRS's current practice is to calculate the number of hearing sessions per day by adding the number of hearing hours, subtracting time spent for lunch, and dividing that number by four hours.[33] Consistent with this practice and to provide transparency and consistency, the proposal would amend the definition of ''hearing session'' to clarify that in one day, the next hearing session begins after four hours of hearing time has elapsed.[34]

5. Update Submission Agreement When Filing a Third Party Claim

Under the Codes, respondents must serve a signed and dated Submission Agreement and an answer on each other party within 45 days of receipt of the statement of claim.[35] The answer may include a third party claim.[36] If the answer includes a third party claim, the respondent must also serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director.[37] The Codes also provide that the respondent must file the third party claim with the Director through the Party Portal, except as otherwise provided.[38]

Because the Codes do not have express procedures related to the filing of Submission Agreements if the answer includes a third party claim, often, when a respondent includes a third party claim in the answer, the respondent does not execute a Submission Agreement that lists the name of the third party. Under the Codes, the Director will not serve any claim that is deficient. A claim is deficient if the Submission Agreement does not name all parties named in the claim.[39] In addition, the Codes do not provide that if the answer includes a third party claim, the respondent must file the Submission Agreement with the Director. Thus, if the answer includes a third party claim, DRS must contact the respondent to inform them of the deficiency and to file an updated Submission Agreement with the Director. These additional steps may result in delays and slower case processing times.

To clarify to parties the requirements related to third party claims and Submission Agreements, the proposed rule change would amend the Codes to provide that if the answer contains a

[23] *See* FINRA Rules 12800(c)(3)(B)(i) and 13800(c)(3)(B)(i). *See also* Securities Exchange Act Release No. 83276 (May 17, 2018), 83 FR 23959, 23960 (May 23, 2018) (Order Approving File No. SR–FINRA–2018–003).

[24] *See* Securities Exchange Act Release No. 82693 (February 12, 2018), 83 FR 7086, 7087 (February 16, 2018) (Notice of Filing of File No. SR–FINRA–2018–003); *see also* 83 FR 23959, 23960, *supra* note 23.

[25] *See* proposed Rules 12800(c)(3)(B)(i) and 13800(c)(3)(B)(i).

[26] *See* FINRA Rules 12300(d)(1)(A) and 13300(d)(1)(A).

[27] *See* FINRA Rules 12300(d)(1)(C) and 13300(d)(1)(C). *See also* Securities Exchange Act Release No. 72269 (May 28, 2014), 79 FR 32003, 32004 (June 3, 2014) (Notice of Filing and Order Approving File No. SR–FINRA–2014–008).

[28] *See, e.g., Regulatory Notice* 20–13 (May 2020) (reminding firms to be aware of fraud during the pandemic); *Regulatory Notice* 20–32 (September 2020) (reminding firms to be aware of fraudulent options trading in connection with potential account takeovers and new account fraud); *Regulatory Notice* 21–14 (March 2021) (alerting firms to recent increase in automated clearing house ''Instant Funds'' abuse); *Regulatory Notice* 21–18 (May 2021) (sharing practices firms use to protect customers from online account takeover attempts); and *Regulatory Notice* 22–21 (October 2022) (alerting firms to recent trend in fraudulent transfers of accounts through the Automated Customer Account Transfer Service).

[29] FINRA Rules 12300(d)(1)(C) and 13300(d)(1)(C) would be deleted. *See* proposed Rules 12300(d)(1) and 13300(d)(1).

[30] *See* FINRA, Protecting Personal Confidential Information, *https://www.finra.org/arbitration-mediation/protecting-personal-confidential-information.*

[31] *See* FINRA Rules 12100(p) and 13100(p).

[32] *See generally* FINRA Rules 12214 and 13214.

[33] *See* FINRA, Honorarium, *https://www.finra.org/arbitration-mediation/honorarium.*

[34] *See* proposed Rules 12100(p) and 13100(p).

[35] *See* FINRA Rules 12303(a) and 13303(a). The Submission Agreement is a document that parties must sign at the outset of an arbitration in which they agree to submit to arbitration under the Codes. *See* FINRA Rules 12100(dd) and 13100(ee). This document confirms FINRA's jurisdiction over a case and binds parties to the outcome of the case.

[36] A ''third party claim'' is a claim asserted against a party not already named in the statement of claim or any other previous pleading. *See* FINRA Rules 12100(ee) and 13100(gg).

[37] *See* FINRA Rules 12303(b) and 13303(b).

[38] *See* FINRA Rules 12303(b) and 13303(b). Parties must use the Party Portal to file initial statements of claim and to file and serve pleadings and any other documents on the Director or any other party, except as otherwise provided. *See* FINRA Rules 12300(a) and 13300(a).

[39] *See* FINRA Rules 12307(a) and 13307(a).

third party claim, the respondent must execute a Submission Agreement that lists the name of the third party.[40] In addition, the proposed rule change would amend the Codes to clarify that the respondent must file the Submission Agreement with the Director.[41] FINRA believes that the proposed rule change would help avoid potential delays and slower case processing times that may result from a lack of clarity in the Codes today regarding Submission Agreements when an answer contains a third party claim.

6. Amending Pleadings or Filing Third Party Claims

As discussed above, currently, the Codes include provisions related to including a third party claim in an answer to a statement of claim.[42] In addition, the Codes include provisions related to answering third party claims.[43] The Codes do not, however, include express procedures related to the filing of third party claims other than in an answer to a statement of claim. Instead, procedures for the filing of third party claims are included broadly under the provisions related to amended pleadings. Accordingly, the proposed rule change would amend the Codes to expressly add the procedures for the filing of third party claims to the provisions in the Codes, such that the procedures that would apply to the filing and serving of third party claims would be the same procedures that would apply to amended pleadings.[44] In addition, the proposed rule change would restructure the provisions related to amending pleadings and filing third party claims and add titles to clarify what processes are available based on various milestones in a case, including before and after panel appointment and before and after ranked arbitrator lists are due to the Director.[45]

a. Clarifying the Process

The proposed rule change would also amend the Codes to clarify the processes related to amending pleadings and filing third party claims. Specifically, the proposed rule change would clarify that: (1) arbitrators are ''appointed to'' the panel, rather than placed ''on'' the panel;[46] (2) the form of an amended pleading or third party claim that should be included with a motion need not be a hard copy;[47] (3) once the ranked arbitrator lists are due, no party may amend a pleading to add a party or file a third party claim until a panel has been appointed and the panel grants a motion to amend a pleading or file the third party claim;[48] (4) service by first-class mail or overnight mail service is accomplished on the date of mailing and that service by any other means is accomplished on the date of delivery;[49] (5) the provisions in the Codes relating to responding to amended pleadings are separate from the current provisions relating to answering amended claims;[50] and (6) before panel appointment, the Director has authority to determine whether any party may file a response to an amended pleading.[51]

b. Member or Associated Person Becomes Inactive

The proposed rule change would also amend provisions of the Customer Code related to filing amended pleadings when a customer in an arbitration is notified by FINRA that a member or associated person in the arbitration has become inactive.

Under the Customer Code, after panel appointment, a party may amend a pleading if FINRA notifies a customer that a member or an associated person has become inactive as set forth in FINRA Rule 12202.[52] Once the ranked arbitrator lists are due to the Director, a party may only amend a pleading to add a new party to the arbitration if FINRA notifies a customer that a member or an associated person has become inactive as set forth in FINRA Rule 12202.[53] The proposed rule change would amend these provisions of the Customer Code to also apply to the filing of third party claims.[54] The same processes that would apply to the filing of third party claims are those that are applicable today to amending pleadings after panel appointment and amending pleadings to add a new party once the ranked arbitrator lists are due.[55] In addition, FINRA is proposing to replace ''party'' with ''customer'' as it is the customer to the arbitration proceeding who may amend a pleading or file a third party claim if FINRA notifies the customer that a member or associated person has become inactive.[56]

7. Combining Claims

Before ranked arbitrator lists are due to the Director, the Codes permit the Director to combine separate but related claims into one arbitration.[57] The Codes also provide that once a panel has been appointed, the panel may reconsider the Director's decision upon motion of a party.[58] The Codes do not address, however, if a panel can combine separate but related claims into one arbitration, or which panel may reconsider the Director's decision upon motion of party.

Under current practice, if a panel has been appointed to the lowest numbered case (*i.e.,* the case with the earliest filing date), the panel in that case may combine separate but related claims into one arbitration and reconsider the Director's decision upon motion of a party.[59] If a panel has been appointed to the highest numbered case (*i.e.,* the case with the latest filing date), but not to the lowest numbered case, under current practice, the panel appointed to the highest numbered case may make these determinations.

For transparency and consistency, FINRA is proposing to codify current practice by amending the Codes to provide that if a panel has been appointed to the lowest numbered case, the panel in that case may: (a) combine separate but related claims into one arbitration; and (b) reconsider the Director's decision upon motion of a party.[60] In addition, the proposed rule change would codify current practice that if a panel has been appointed to the highest numbered case (*i.e.,* the case with the latest filing date), but not to the lowest numbered case, the panel appointed to the highest numbered case may: (a) combine separate but related claims into one arbitration; and (b) reconsider the Director's decision upon motion of a party.[61] The proposed rule change would clarify for parties and

[40] *See* proposed Rules 12303(b) and 13303(b).

[41] *See* proposed Rules 12303(b) and 13303(b).

[42] *See* FINRA Rules 12303(b) and 13303(b).

[43] *See* FINRA Rules 12306 and 13306.

[44] *See* proposed Rules 12309 and 13309.

[45] *See* proposed Rules 12309 and 13309.

[46] *See* proposed Rules 12309(a) and 13309(a).

[47] The phrase ''a copy of'' would be deleted. *See* proposed Rules 12309(b)(1) and 13309(b)(1).

[48] *See* proposed Rules 12309(c)(1) and 13309(c)(1).

[49] *See* proposed Rules 12309(c)(3) and 13309(c)(3).

[50] *See* proposed Rules 12309(d) and 13309(d). *See also* FINRA Rules 12310 and 13310.

[51] *See* proposed Rules 12309(d) and 13309(d). *See also* FINRA Rules 12310 and 13310.

[52] *See* FINRA Rule 12309(b)(2).

[53] *See* FINRA Rule 12309(c).

[54] *See* proposed Rule 12309(b)(2) and (c)(2).

[55] *See* proposed Rules 12309 and 13309.

[56] *See* proposed Rule 12309(b)(2) and (c)(2).

[57] *See* FINRA Rules 12314 and 13314.

[58] *See* FINRA Rules 12314 and 13314.

[59] The current practice of having the panel appointed to the lowest numbered case make such determinations is consistent with how motions related to separated claims are decided under the Codes today. For example, the Codes provide that in cases with multiple claimants or multiple respondents, a party whose claims were separated by the Director may make a motion to the panel in the lowest numbered case to reconsider the Director's motion. *See* FINRA Rules 12312, 12313, 13312 and 13313.

[60] *See* proposed Rules 12314(b)(1) and 13314(b)(1).

[61] *See* proposed Rules 12314(b)(2) and 13314(b)(2).

arbitrators procedures related to combining claims in the forum.

8. Motion Practice

Currently, some parties assume that the Party Portal automatically sends the parties' responses and replies to the panel. In practice, DRS sends all motions and all responses to the panel after the last reply date has elapsed, unless otherwise directed by the panel. This practice helps ensure that the arbitrators have the complete set of motion papers before they begin considering the motion. Parties are often unaware of this practice because the Codes do not address how DRS processes motions including responses and replies.

To provide transparency and consistency, the proposed rule change would amend the Codes to codify the current practice by providing that the Director will send all motions, responses, and replies to the panel after the last reply date has elapsed, unless otherwise directed by the panel.[62] After the last reply date has elapsed, if the Director receives additional submissions on the motion,[63] the Director will forward the submissions to the panel upon receipt and the panel will then determine whether to accept them.[64]

In addition, the proposed rule change would amend the Codes to clarify who has the authority to decide motions related to separating and combining claims or arbitrations. Specifically, the proposed rule change would amend the Codes to include cross-references to FINRA Rules 12312, 12313, 13312 and 13313, as applicable, which provide that motions relating to separating claims or arbitrations are decided by the Director before a panel is appointed, or by the panel after the panel is appointed.[65] In addition, the proposed rule change would amend the Codes to include a cross-reference to proposed FINRA Rules 12314 and 13314,[66] as applicable, which, as discussed above, would clarify which panel from multiple arbitrations may combine separate but related claims into one arbitration and reconsider the Director's decision to combine claims upon motion of a party.[67]

9. Witness Lists Shall Not Be Combined With Document Lists

Under the Codes, at least 20 days before the first scheduled hearing date, all parties must provide all other parties with copies of all documents and other materials in their possession or control that they intend to use at the hearing that have not already been produced. The parties should not file the documents with the Director or arbitrators before the hearing.[68] The Codes also provide that at least 20 days before the first scheduled hearing date, all parties must provide each other with the names and business affiliations of all witnesses they intend to present at the hearing. All parties must file their witness lists with the Director.[69]

Often, parties file with the Director one document that contains both the list of documents and other materials, such as exhibits, they intend to use at the hearing that have not already been produced and the witness list. As the list of documents and other materials could contain prejudicial or inadmissible material, as a service to forum users, the Director will manually remove this information from the document containing the witness list before forwarding it to the panel. However, on occasion, the Director may inadvertently disseminate the list of documents and other materials to the arbitrators, which could reveal potentially prejudicial or inadmissible information to the arbitrators before the hearing.

Because the Codes do not currently include language regarding the sharing of document lists before the hearing, the proposed rule change would specify that if the parties create lists of documents and other materials in their possession or control that they intend to use at the hearing and have not already been produced, the parties may serve the lists on all other parties, but shall not combine the lists with the witness lists filed with the Director.[70] The proposed rule change would clarify to parties that they should not combine document lists with witness lists and, thereby, also help protect against the inadvertent sharing of such document lists with the arbitrators before the hearing.

10. Hearing Records

Under the Codes, the Director will make a tape, digital or other recording of every hearing with certain exceptions as specified in the Codes.[71] The Codes permit the panel to order the parties to provide a transcription of the recording.[72] The parties may also make a stenographic record of the hearing.[73]

a. Distributing Copies

The Codes do not set forth which party must provide to each arbitrator, serve on each party and file with the Director a copy of a transcription of a recording or the stenographic record if it is the official record of the proceeding. Accordingly, the proposed rule change would amend the Codes to provide that if the panel orders a transcription, or the stenographic record is the official record of the proceeding, a copy of the transcription or stenographic record must be provided to each arbitrator, served on each party, and filed with the Director by the party or parties ordered to make the transcription or electing to make the stenographic record, as applicable.[74]

b. Executive Sessions

Executive sessions are discussions among arbitrators outside the presence of the parties and their representatives, witnesses and stenographers and are not recorded as they are not part of the official record of the hearing. For transparency and consistency, the proposed rule change would amend the Codes to provide that executive sessions held by the panel will not be recorded.[75]

11. Dismissal of Proceedings for Insufficient Service

Under the Codes, parties, except for *pro se* parties, must serve all pleadings and other documents through the Party Portal, and service is accomplished on the day of submission through the Party Portal.[76] If a party who is served fails to submit an answer, DRS reviews the service history with the panel and asks the panel to decide whether service is complete and sufficient upon the unresponsive party before the case may proceed to hearing.[77] The Codes do not address, however, what action a panel may take if the panel determines that

[62] *See* proposed Rules 12503(d) and 13503(d).

[63] With respect to motions to amend a pleading, the proposed rule change would revise the Codes to state that such motions must ''include'' rather than ''be accompanied by copies of'' the proposed amended pleading to clarify that hard copies are not required. *See* proposed Rules 12504(a)(4) and 13504(a)(4). In addition, the proposed rule change would renumber paragraphs in the rules impacted by the proposed rule change.

[64] *See* proposed Rules 12503(d) and 13503(d).

[65] *See* proposed Rules 12503(e)(3) and 13503(e)(3).

[66] *See* proposed Rules 12503(e)(4) and 13503(e)(4).

[67] *See supra* notes 60 and 61 and accompanying text.

[68] *See* FINRA Rules 12514(a) and 13514(a).

[69] *See* FINRA Rules 12514(b) and 13514(b).

[70] *See* proposed Rules 12514(a) and 13514(a).

[71] *See* FINRA Rules 12606(a) and 13606(a).

[72] *See* FINRA Rules 12606(a)(2) and 13606(a)(2).

[73] *See* FINRA Rules 12606(a) and 13606(b).

[74] *See* proposed Rules 12606(a)(2), 13606(a)(2), 12606(b)(2) and 13606(b)(2).

[75] *See* proposed Rules 12606(a)(1) and 13606(a)(1).

[76] *See* FINRA Rules 12300(c) and 13300(c).

[77] *See* FINRA, Initial Prehearing Conference Script for Panel Cases, *https://www.finra.org/sites/default/files/2022-08/iphc_script_panel_cases.pdf.*

service on the unresponsive party was insufficient. In practice, if the panel determines that service was insufficient, the panel may dismiss the claim or arbitration without prejudice.

For transparency and consistency, the proposed rule change would codify current practice by amending the Codes to provide that the panel may dismiss without prejudice a claim or an arbitration for lack of sufficient service upon a respondent.[78]

12. Dismissal of Claimant's Claims Requires Issuance of an Award

Under the Codes, an award is a document stating the disposition of a case,[79] is final and is not subject to review or appeal,[80] and shall be made publicly available.[81] The Codes permit a panel to grant a motion to dismiss a party's case at the conclusion of the case in chief.[82] The Codes, however, do not address whether such a dismissal requires the issuance of an award. As the dismissal of all a claimant's claims disposes of the case, it is current practice to require the issuance of an award for such dismissals.[83] For transparency and consistency, the proposed rule change would codify current practice by amending the Codes to require that if a panel dismisses all of a claimant's claims at the conclusion of the case in chief, the decision must contain the elements of a written award and must be made publicly available as an award.[84]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[85] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change will enhance the transparency of the arbitrator selection process by addressing recommendations in the Report by codifying DRS's practice of conducting a manual review for conflicts of interest prior to sending an arbitrator list to the parties and requiring the Director to provide a written explanation to parties of the Director's decision to grant or deny a party's request to remove an arbitrator. In addition, the proposed rule change will clarify for forum users that parties may challenge an arbitrator for cause at any point after receipt of the arbitrator lists until the first hearing session begins.

The proposed rule change will address the preferences of forum users to hold prehearing conferences by video conference and of customers in simplified arbitrations to have the option to hold simplified proceedings by video conference or by telephone, unless the parties agree to another type of hearing session. It may also help facilitate parties' ability to participate or interact in such arbitration proceedings. The proposed rule change will also clarify for forum users that hearings will generally be held in person unless the parties agree to, or the panel grants a motion for, another type of hearing session.

The proposed rule change will enhance the transparency and efficiency of the DRS arbitration forum for forum users, including investors, by codifying current practices relating to how parties must distribute transcriptions or stenographic records of hearings; clarifying that an answer with a third party claim must include an updated Submission Agreement that lists the name of the third party; clarifying the processes relating to amending pleadings and filing third party claims; codifying current practices relating to how DRS processes motions; codifying current practice that the panel appointed to the lowest numbered case makes decisions regarding combining claims; codifying current practice to allow a panel to dismiss without prejudice a claim or an arbitration for lack of sufficient service upon a respondent; clarifying that executive sessions held by the panel will not be recorded; and codifying current practice requiring a panel to render a written award if the panel grants a motion to dismiss all of the claimant's claims made after the conclusion of a party's case.

Finally, the proposed rule change will help protect forum users, including *pro se* parties, from the inadvertent disclosure of PCI or other information that is potentially prejudicial or inadmissible by requiring parties to redact PCI in simplified arbitrations and prohibiting parties from prematurely filing the list of documents and other materials they intend to use at a hearing with the Director.

FINRA believes the proposed rule change reflects and aligns with DRS's current practices and procedures, and enhances the transparency and efficiency of the DRS arbitration forum by codifying and clarifying these practices and procedures.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA has undertaken an economic impact assessment to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives. As discussed below, FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Economic Impact Assessment

A. Regulatory Need

Certain arbitration procedures are not formally described in the Codes, whereas certain other arbitration procedures are formally described in the Codes but questions arise regarding their application. This potential ambiguity may reduce the ability of parties to anticipate their future actions or obligations and thus may cause parties to incur additional costs to prepare and participate in the DRS arbitration forum. Parties and arbitrators may also incur the time to make inquiries to DRS to clarify these arbitration procedures. In addition, potential ambiguity regarding certain

[78] *See* proposed Rules 12700(c) and 13700(c). In addition, while FINRA Rules 12700(b) and 13700(b) currently include cross-references to other rules in which a panel may dismiss a claim or an arbitration, the rules do not include a cross-reference to FINRA Rules 12504 or 13504, as applicable. Thus, the proposed rule change would amend FINRA Rules 12700(b) and 13700(b) to include a cross-reference to FINRA Rules 12504 or 13504, as applicable, which would clarify that a panel may dismiss a claim or an arbitration prior to the conclusion of a party's case in chief under very limited circumstances (*i.e.,* if it is time-barred upon motion of a party, as a sanction for material and intentional failure to comply with an order of the panel, or if there are multiple postponements). The proposed rule change would also remove the bullets and replace them with numbers for outline numbering consistency. *See* proposed Rules 12700(b)(1) and 13700(b)(1).

[79] *See* FINRA Rules 12100(c) and 13100(c).

[80] *See* FINRA Rules 12904(b) and 13904(b).

[81] *See* FINRA Rules 12904(h) and 13904(h). *See also* FINRA, Arbitration Awards Online, *https://www.finra.org/arbitration-mediation/arbitration-awards.*

[82] *See* FINRA Rules 12504(b) and 13504(b).

[83] *See* FINRA, FINRA Dispute Resolution Services Arbitrator's Guide, *https://www.finra.org/sites/default/files/arbitrators-ref-guide.pdf.*

[84] *See* proposed Rules 12504(b) and 13504(b). *See also* FINRA Rules 12904(e) and 13904(e). If the panel grants a motion to dismiss some but not all of the claimant's claims, the hearing would proceed as to the remaining claims and at the conclusion of the hearing, the panel would issue an award that disposes of each claim. *See* FINRA, FINRA Dispute Resolution Services Arbitrator's Guide, *https://www.finra.org/sites/default/files/arbitrators-ref-guide.pdf.*

[85] 15 U.S.C. 78*o*–3(b)(6).

arbitration procedures may result in delays and slower case processing times. The proposed rule change would help address these costs by providing greater transparency and consistency regarding the arbitrator list selection process, and clarifying the application of certain procedures.

B. Economic Baseline

The economic baseline for the proposed rule change consists of the current provisions under the Codes that address the administration of arbitration proceedings. The economic baseline also includes current practices concerning the administration of arbitration proceedings. The proposed rule change is expected to affect parties to cases in the DRS arbitration forum, their legal representatives, and arbitrators.

The proposed rule change may affect any of the cases parties file in the DRS arbitration forum. To describe the potential impact of the proposed rule change, however, FINRA uses the cases that closed from January 2017 to December 2021 (''sample period''). During the sample period, 19,141 cases closed in the DRS arbitration forum. The 19,141 cases include 12,205 cases involving one or more customers and 6,936 cases involving only industry parties.

C. Economic Impacts

Many of the proposed amendments would clarify in the Codes forum procedures and the obligations of parties and arbitrators and, in some instances, codify current practice. To the extent that these amendments would permit forum users to better understand their options or to anticipate their future actions or obligations, the proposed rule change may also increase their ability to prepare and participate in the forum. These amendments would also decrease the need for forum users to inquire with DRS when questions arise. Where the actions of parties or arbitrators vary from general current practice, clarification and codification should increase the consistency of the DRS arbitration forum. Relative to the baseline, such parties may incur costs to adhere to the proposed requirements, but there should be few such parties.

Some of the proposed amendments may have other economic effects. The proposed amendments would clarify that parties may challenge an arbitrator for cause after receipt of the arbitrator lists. To the extent that parties currently believe that they may seek to remove an arbitrator through the challenge process only once the arbitrator is appointed, the proposed clarification may help create efficiencies in the DRS arbitration forum by minimizing potential delays from challenges to arbitrators later in the arbitration proceedings. Among the 19,141 cases that were closed during the sample period, FINRA can identify 236 challenges to remove an arbitrator in 204 cases (one percent).[86]

The proposed amendments would provide that prehearing conferences would generally be held by video conference, unless the customer requests at least 60 days before the first scheduled hearing that it be held by telephone, or the parties agree to another type of hearing session, and may affect the options parties have in arbitration. Among the 19,141 cases that were closed during the sample period, a prehearing conference was held in 14,648 cases (77 percent, with an average of 1.7 prehearing conferences held per case) and a special proceeding was held in 290 cases (two percent). For these hearings, the use of video conference would generally be used in place of telephone.

Some parties may perceive an increase in their ability to participate or interact in the hearings by video conference. As noted above, forum users have expressed a preference to hold prehearing conferences by video conference.[87] Other parties, however, may perceive a decrease. The costs to these other parties may be mitigated by their ability to move for another method of appearance (*e.g.,* telephone) or to seek assistance from DRS. Parties to special proceedings held by video conference may incur additional time to prepare to present their case. This preparation may include meeting with arbitrators to ensure that all hearing participants are able to use the video conference application.[88]

The proposed amendments related to combining claims may help parties decide whether to move to combine claims and how to respond to such motions in arbitration. Among the 19,141 cases that were closed during the sample period, 143 cases (one percent) were closed and consolidated with another case. The proposed rule change may improve the ability of parties to the higher numbered case to weigh the potential benefits of combining claims (*e.g.,* lower legal and forum fees) against the potential costs associated with having the claim decided by the panel in the lowest numbered case.

The parties to cases that combine as a result of the proposed amendments may benefit from lower legal and forum fees relative to the total fees parties would similarly incur in separate arbitrations. Parties that would choose to combine claims under the baseline due to a misunderstanding of the current practice, but not under the proposed rule change, would incur the legal and forum fees to separately arbitrate their dispute and have their claim decided by the panel to their case. The fees these parties incur may be greater than their share if they instead combined claims. The decision not to combine claims and incur the higher fees, however, results from improved information. The parties that do not want to combine claims, therefore, must anticipate that the higher fees are justified.

Finally, the proposed amendments would better organize the handling of certain documents and records in the DRS arbitration forum by imposing new obligations and requirements on parties. These new obligations and requirements would reduce the level of involvement by DRS, allow for more efficient document management and help protect parties from the inadvertent sharing of potentially prejudicial or confidential information. For example, the proposed rule change would prohibit parties from combining lists of documents and other materials with the witness list to help protect against the inadvertent sharing of such document lists with the arbitrators before the hearing. In addition, the proposed requirement to redact PCI from filings with claims of $50,000 or less, exclusive of interest and expenses, would benefit parties by reducing the risk of identity theft. However, parties may incur additional costs to redact this information. Among the 19,141 cases that closed during the sample period, 4,431 cases (23 percent) relate to claims of $50,000 or less. At least one party appeared *pro se* in less than 30 percent of the 4,431 cases. These parties may benefit from updated guidance on how to redact PCI from documents filed with DRS.[89]

D. Alternatives Considered

FINRA developed the proposed amendments over a multi-year process during which FINRA considered and modified proposals based on feedback from forum users, including investors, securities industry professionals and

[86] *See* FINRA Rules 12407 and 13410. In general, the 236 challenges relate to challenges to remove an appointed arbitrator. Information describing party challenges to remove an arbitrator from a list was not collected during the sample period.

[87] *See supra* note 18 and accompanying text.

[88] The proposed amendments may ameliorate these additional costs by requiring that a customer request that a special proceeding be conducted by telephone at least 60 days before a scheduled hearing. Within the 60 days, similar to today, parties can agree to another type of hearing session

[89] *See supra* note 30 and accompanying text.

FINRA arbitrators. FINRA also considered the Report's recommendations to provide greater transparency and consistency in the arbitrator list selection process, some of which require amendments to the Codes. In evaluating proposals, FINRA considered numerous factors including efficiency, cost, fairness and transparency, and certain tradeoffs among these factors. Codifying current practice may achieve greater efficiency and fairness by reducing uncertainty among forum users. It would also have the least impact on costs. Those amendments that do not codify current practice and are new requirements for forum users may result in the more efficient administration of cases in the DRS arbitration forum, and would not impose an undue burden. Thus, the proposed amendments strike an appropriate balance between further enhancing the DRS arbitration forum while limiting any additional costs of complying with the proposed amendments.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2022–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2022–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2022–033 and should be submitted on or before February 2, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[90]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–00425 Filed 1–11–23; 8:45 am]

BILLING CODE 8011–01–P

[90] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.13 percent for the January–March quarter of FY 2023.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third-party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

David B. Parrish,

Chief, Secondary Market Division.

[FR Doc. 2023–00469 Filed 1–11–23; 8:45 am]

BILLING CODE P

SURFACE TRANSPORTATION BOARD

30-Day Notice of Intent To Seek Extension and Modification of an Existing Collection: Urgent Rail Service Issues

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension and modification of an existing and approved information collection, as described below. An emergency approval was granted for this collection (OMB Control Number 2140–0041), expiring on January 31, 2023. The Board is now seeking to extend and modify that collection with a submission through OMB's regular PRA clearance process.

DATES: Comments on these information collections should be submitted by February 13, 2023.

ADDRESSES: Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board: Urgent Rail Service Issues.'' Written comments for the proposed information collection should be submitted via *www.reginfo.gov/public/do/PRAMain.* This information collection can be accessed by selecting ''Currently under Review—Open for Public Comments'' or by using the

search function. As an alternative, written comments may be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Michael J. McManus, Surface Transportation Board Desk Officer: via email at *oira_submission@omb.eop.gov;* by fax at (202) 395–1743; or by mail to Room 10235, 725 17th Street NW, Washington, DC 20503.

Please also direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Urgent Rail Service Issues.'' For further information regarding this collection, contact Ian Anderson at (202) 245–0337 or *Ian.Anderson@stb.gov.* Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Board previously published a notice about this collection in the **Federal Register** (87 FR 66345 (Nov. 3, 2022)). That notice allowed for a 60-day public review and comment period. No comments were received.

Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Submitted comments will be included and summarized in the Board's request for OMB approval.

Subjects: In this notice, the Board is requesting comments on the following information collection:

Description of Collection

Title: Urgent Rail Service Issues.

OMB Control Number: 2140–0041.

STB Form Number: None.

Type of Review: Revision and extension of currently approved collection.

Respondents: Class I (Large) Railroads.

Number of Respondents: See Table 1 below.

Estimated Time per Response: See Table 1 below.

Frequency: One-time, bi-weekly and monthly, as provided in Table 1 below.

Total Burden Hours (annually including all respondents): 3,024 (sum of estimated hours per response × number of annual responses for each type of filing), as provided in Table 1 below.

TABLE 1—TOTAL ESTIMATED BURDEN HOURS

Type of filing	Estimated hours per response	Number of respondents	Estimated frequency	Total burden hours
Service Progress Reports	8	4	13	416
Weekly Performance Data	8	7	26	1,456
Monthly Employment Data	16	7	6	672
Interim Update	120	4	1	480
Total Burden Hours				3,024

Total Annual ''Non-hour Burden'' Cost: There are no non-hourly burden costs for this collection. The itemized sub-collections may be filed electronically.

Needs and Uses: Under the Interstate Commerce Act, as amended by the ICC Termination Act of 1995, the Board is responsible for the economic regulation of common carrier rail transportation. Under 49 U.S.C. 1321(b), 11123, and 11145(a), the Board is empowered to address immediate service issues. Collecting this information will enable the Board to take necessary action to timely deal with the unanticipated and urgent service issues affecting the U.S. rail system. These measures are meant to inform the Board's assessment of further actions that may be warranted to address the acute service issues facing the rail industry and to promote industry-wide transparency, accountability, and improvements in rail service.

At the Board's April 26 and 27, 2022 public hearing in *Urgent Issues in Freight Rail Service,* the Board received extensive testimony on severe rail service issues reported by a wide range of witnesses—including agricultural, energy, and other shippers, as well as government officials, rail labor, and other rail interests. The Board has also continued to review and monitor weekly rail service performance data that indicated substantial deterioration in service. This information collection focuses on the adequacy of service recovery efforts involving BNSF Railway Company (BNSF), CSX Transportation (CSXT), Norfolk Southern Railway Company (NS), and Union Pacific Railroad Company UP), and it requires more comprehensive and customer-centric reporting of all Class I (large) railroads' service metrics.

In a decision served on May 6, 2022, the Board found that immediate action was needed to address significant service problems, and it ordered certain railroads to immediately submit relevant information. The Board took this action to better inform its assessment of actions that may be warranted to address rail service issues. In a decision served on June 13, 2022, the Board required UP, BNSF, CSXT, and NS to correct deficiencies in their service recovery plans and provide additional information on their actions to improve service and communications with customers.

Now, in a decision served on October 28, 2022, the Board extended the temporary reporting period for all seven Class I carriers and required certain updated information from UP, BNSF, CSXT, and NS. The Board directed these four carriers to continue to submit biweekly service progress reports for an additional six-month period, until May 5, 2023. The Board also directed all Class I railroads to submit weekly performance data during this period.

Although not all Class I carriers are experiencing service problems to the same degree, the U.S. rail system is an interconnected network and problems in one geographic area can quickly spread elsewhere. The application of certain reporting requirements to all Class I carriers allows the Board to assess the current service issues across the entire rail network. All Class I carriers must also continue to submit monthly employment data in this

docket, as described in the May 6 Order. Specific instructions for this information collection and analysis of recent data are provided in the October 28 order.

The information received by the Board from this collection will continue to be filed in Docket No. EP 770 (Sub-No. 1) and will be publicly available at *www.stb.gov.* The information may be found by a search in that docket under the ''proceedings and dockets'' pull-down menu.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Decided date: January 9, 2023.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2023–00517 Filed 1–11–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2022–1033; Summary Notice No. 2022–43]

Petition for Exemption; Summary of Petition Received; Hyannis Air Service, Inc. d.b.a. Cape Air/Nantucket Airlines

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 1, 2023.

ADDRESSES: Send comments identified by docket number FAA–2022–1033 using any of the following methods:

- *Federal eRulemaking 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, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew Thai at (202) 267–0175, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on December 21, 2022.

Brandon Roberts,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–1033.

Petitioner: Hyannis Air Service, Inc. d.b.a. Cape Air/Nantucket Airlines.

Section(s) of 14 CFR Affected: § 135.243(a)(1).

Description of Relief Sought: The petitioner seeks an exemption from 14 CFR 135.243(a)(1) requiring a Pilot in Command of Cape Air's Part 135 commuter operation to hold an Airline Transport Pilot certificate while operating a nine passenger multi-engine reciprocating engine aircraft. The petitioner seeks to exercise the privileges of the exemption request outside of the United States.

[FR Doc. 2023–00486 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2022–1193; Summary Notice No. 2022–40]

Petition for Exemption; Summary of Petition Received; L3Harris Technologies

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 1, 2023.

ADDRESSES: Send comments identified by docket number [FAA–2022–1193] using any of the following methods:

- *Federal eRulemaking 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, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the

public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 4, 2023.

Brandon Roberts,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–1193.

Petitioner: L3Harris Technologies.

Section(s) of 14 CFR Affected: §§ 61.3(a)(1)(i), 91.7(a), 91.109, 91.119(c), 91.121, 91.403(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (2), 91.417(a) & (b).

Description of Relief Sought: L3Harris Technologies (L3Harris) seeks relief to operate the FVR–55 unmanned aircraft system (UAS), weighing over 55 pounds (lbs.) but no more than 70 lbs., for the purpose of platform development, training, and aerial data acquisition.

[FR Doc. 2023–00484 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to an assignment agreement executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway projects will be barred unless the claim is filed on or before the deadline. For the projects listed below, the deadline is June 12, 2023. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Patrick Lee, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2358; email: *Patrick.Lee@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting the local TxDOT office at the address or telephone number provided for each project below.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. Garth Road from I–10 to SH 146 in Harris County, Texas. The proposed

improvements from I–10 to Baker Road would include reconstructing and widening Garth Road from four to six lanes. The proposed roadway would include three 11-foot-wide travel lanes in each direction, a 16-foot-wide noncontinuous raised median, a 6.5-foot sidewalk on the west side, and a 10-foot-wide shared use path on the east side. Right-turn lanes would also be provided at some locations. The proposed improvements from Baker Road to SH 146 would include reconstruction of the existing roadway, adding noncontinuous raised medians, and either a 6.5-foot-wide sidewalk or a 10-foot-wide shared use path adjacent to the roadway. The total project length is approximately 3.73 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on September 13, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Houston District Office at 7600 Washington Avenue, Houston, TX 77007; telephone: (713) 802–5000.

2. FM 2931 From US 380 to FM 428 in Denton County, Texas. The proposed project would include the widening of FM 2931 to a 6-lane urban roadway section with a raised median and left-turn lanes in various locations within the project limits. The proposed roadway would include three 11- or 12-foot wide (depending on the section) travel lanes in each direction with no shoulders, a raised median, and a 10-foot wide shared use path on each side of the roadway. The proposed project is approximately 6.37 miles in length. The purpose of the proposed project is to improve mobility and safety in the project area. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on September 27, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

3. US 84 in Mexia, from FM 1365 to 1.05 miles East of FM 1365, Limestone County, Texas. This project is approximately 1.05 miles long. Proposed improvements include widening the roadway from two to four lanes with a two-way left-turn lane, upgrading to a closed storm drain system with curb and gutter, and constructing a sidewalk and a shared-use path. This project would require approximately 1.8 acres of new right of way. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on September 28, 2022, and other documents in the TxDOT project file. The Categorical Exclusion and other documents in the TxDOT project file are available by contacting the TxDOT Waco District Office at 100 South Loop Drive, Waco, TX 76704; telephone: (254) 867–2700.

4. IH 69E, from Spur 54 in Harlingen to Spur 413 in Sebastian, Cameron and Willacy Counties, Texas. The purpose of the project is to improve safety and mobility by upgrading the facility to interstate standards, which would include widening and reconstructing IH 69E to a six-lane controlled access facility, with three 12 foot-wide travel lanes in each direction, 10 foot-wide inside and outside shoulders, and ramp improvements. The proposed project length is approximately 12 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on September 30, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Pharr District Office 600 W Expressway 83, Pharr, TX 78577; telephone: (956) 702–6100.

5. Slaughter Lane from Brodie Lane to South Loop 1 NB (Mopac), Travis County, Texas. The project will improve Slaughter Lane from a four-lane roadway to a six-lane roadway. In addition, new pedestrian/bicycle facilities will be constructed along both sides of Slaughter Lane. The project is approximately 1.6 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on September 30, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Austin District Office at 7901 North I–35, Austin, TX 78753; telephone: (512) 832–7000.

6. FM 1082 Fort Phantom Hill Dam Road Project, from west of Cheyenne Creek Road to east of the *Dam,* in Jones County, Texas. The project would reconstruct existing FM 1082 due to the failing existing conditions of FM 1082 off the crest of the dam and relocate the roadway to the downstream side north of the lake. The new roadway will be 32 feet-wide with two 11-foot travel lanes and 5-foot outside shoulders. A new bridge will cross Elm Creek at the bottom and will be 34 feet-wide with two 11-foot travel lanes and 5-foot outer shoulders. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on October 7, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Abilene District Office at 4250 N Clack, Abilene, TX 79601; telephone: (325) 676–6800.

7. SH 151 from Loop 1604 to east of I–410, Bexar County, Texas. The project would widen SH 151 from a four-lane to a six-lane divided roadway. Other improvements include a direct connector from westbound SH 151 to northbound Loop 1604, frontage road improvements, a ramp reversal along Loop 1604, additional exit ramps, a collector distributor and turn-around bridges. The project is approximately 6.5 miles along SH 151 and approximately 2.7 miles along Loop 1604. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on November 15, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615–5839.

8. FM 434 widening project from FM 3400 to the Falls County Line in McLennan County, Texas. The proposed roadway would generally consist of a single 12-foot wide travel lane in each direction with 8-foot wide shoulders. The intersection at FM 3400 would have center and right-turn lanes up to 14-foot wide, as well as striped medians up to 12 feet wide at the intersection. The proposed right-of-way would vary between 100 and 280 feet wide. Access would remain at-grade and non-controlled. No new overpasses, underpasses, or bridges would be constructed, but Bull Hide bridge would be widened 11 feet on the downstream. Approximately 30.90 acres of additional right-of-way would be required for the proposed project, as well as approximately 12.02 acres for permanent drainage easements. The

project is approximately 4.78 miles long. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on November 22, 2022, and other documents in the TxDOT project file. The Categorical Exclusion and other documents in the TxDOT project file are available by contacting the TxDOT Waco District Office at 100 South Loop Drive, Waco, TX 76704; telephone: (254) 867–2836.

9. TxDOT, in conjunction with the Dallas/Fort Worth International Airport (DFW Airport), proposes to construct the East-West Connector (Rental Car Drive) project in eastern Tarrant County, Texas. The proposed roadway has project limits from SH 360 to International Parkway (Spur 97) and would consist of a new four-lane, divided urban arterial roadway. The project length is 1.65 miles. The purpose of the project is to reduce travel times and improve mobility to and from the DFW Airport. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on September 1, 2022, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Fort Worth District Office at 2501 SW Loop 820, Fort Worth, TX 76133; telephone: (817) 370–6772.

10. FM 2220 (Ware Road) from FM 1925 to Mile 5 Road in Hidalgo County, Texas. The purpose of the project is to improve safety and mobility by widening and reconstructing FM 2220 to a six-lane urban facility, to include three 12-foot-wide travel lanes in each direction, 10-foot-wide shoulders, sidewalks, a raised median, and drainage improvements. The proposed project length is approximately 5.4 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on October 14, 2022, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Pharr District Office at 600 W Expressway 83, Pharr, TX 78577; telephone: (956) 702–6100.

Authority: 23 U.S.C. 139(l)(1).

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2023–00491 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0104; FMCSA–2017–0058; FMCSA–2017–0060; FMCSA–2018–0135; FMCSA–2019–0109]

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 nine 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: The exemptions were applicable on November 30, 2022. The exemptions expire on November 30, 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 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–2014–0104, FMCSA–2017–0058, FMCSA–2017–0060, FMCSA–2018–0135, or FMCSA–2019–0109) 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), 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 29, 2022, FMCSA published a notice announcing its decision to renew exemptions for nine 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 73384). The public comment period ended on December 29, 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 that is 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).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the nine renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41(b)(11).

As of November 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 73384):

Deonte Blanks (TX)
Alan Bridgeford (AZ)
Michael Dohanish (OH)
Ralph Domel (TX)
Bruce Dunn (LA)
Teela Gilmore (GA)
Gregory Hale (CA)
Scott Perdue (GA)
Adalberto Rodriguez (NY)

The drivers were included in docket numbers FMCSA–2014–0104, FMCSA–2017–0058, FMCSA–2017–0060, FMCSA–2018–0135, or FMCSA–2019–0109. Their exemptions were applicable as of November 30, 2022 and will expire on November 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. 2023–00447 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0121; FMCSA–2014–0102; FMCSA–2018–0136]

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 five 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: The exemptions were applicable on December 16, 2022. The exemptions expire on December 16, 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 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 numbers (FMCSA–2013–0121, FMCSA–2014–0102, or FMCSA–2018–0136) 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), 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 29, 2022, FMCSA published a notice announcing its decision to renew exemptions for five 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 73388). The public comment period ended on December 29, 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 that is 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).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the five renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41 (b)(11).

As of December 16, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (87 FR 73388):

James Dignan (TX)
Ahmed Gabr (NC)
Arnold Hatton (DE)
Fernando Ramirez-Savon (FL)
Eric Woods (MD)

The drivers were included in docket numbers FMCSA–2013–0121, FMCSA–2014–0102, or FMCSA–2018–0136. Their exemptions were applicable as of December 16, 2022 and will expire on December 16, 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. 2023–00443 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0137]

Entry-Level Driver Training: National Ground Water Association; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny the exemption request from the National Ground Water Association (NGWA). NGWA sought an exemption from the entry-level driver training (ELDT) regulations ''for individuals operating class B ground water well drilling rigs.'' FMCSA analyzed the exemption application and public comments and determined that the exemption would not achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–2722. Email: *richard.clemente@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0137'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click ''Browse Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0137'' in the keyword box, click ''Search,'' and chose the document to review.

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, 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation Requirements

The ELDT regulations, implemented on February 7, 2022 and set forth in 49 CFR part 380, subparts F and G, establish minimum training standards for individuals applying for certain commercial driver's licenses (CDLs) and define curriculum standards for theory and behind-the-wheel (BTW) training. They also established an online training provider registry (TPR), eligibility requirements for providers to be listed on the TPR, and requirements for ELDT instructors. Under 49 CFR 380.609(a), an individual who applies, for the first time, for a Class A or Class B CDL, or who upgrades to a Class A or B CDL, must complete driver training from a provider listed on the TPR, as set forth in subpart G.

Applicant's Request

NGWA states that it is the country's largest professional association representing water well contractors, groundwater scientists, and manufacturers and suppliers of groundwater technology. NGWA seeks an exemption from the ELDT regulations ''for individuals operating class B ground water well drilling rigs'' which transport water well field equipment used to access ground water. NGWA states that increasing demands for groundwater and private water wells, along with labor and supply shortages, have contributed to delays in drilling new water wells. NGWA believes that the exemption, if granted, would allow ground water well drilling rig operators to receive on-the-job training, which could save hundreds of hours each year for water well contractors. NGWA asserts that, if the exemption was granted, on-the-job ''safe driver'' training would be provided to drivers covered by the exemption prior to ''taking their CDL exam.'' NGWA did not, however, provide details regarding such training or how the training would achieve a level of safety equivalent to or greater than the level of safety achieved by complying with the ELDT regulations.

IV. Public Comments

On July 7, 2022, FMCSA published notice of this application and requested public comments (87 FR 40581). The Agency received 18 comments: nine in support, eight in opposition, and one neutral. The Owner-Operator Independent Driver's Association (OOIDA) and the AFL–CIO/Transportation Trades Department (AFL–CIO/TTD) both strongly opposed the exemption request, along with six other individuals/small companies. OOIDA cited a number of reasons for its opposition, including its participation as an industry stakeholder on the Entry-Level Driver Training Advisory Committee when the ''framework'' of the ELDT regulations were agreed upon. OOIDA believes this exemption could allow individuals who drive Group B water well drilling rigs to drive other types of Group B vehicles without sufficient knowledge of basic commercial motor vehicle maneuvers, which would not result in an equivalent level of safety. The AFL–CIO/TTD also opposed the request, stating that there are alternatives that would ensure equivalent levels of safety without

undermining the applicability of the ELDT requirements that are designed to protect workers and the public.

Nine commenters supported the request, including representatives from the ground water well industry, such as the Florida Ground Water Association and the Georgia Association of Ground Water Professionals. Those filing in support primarily cited the shortage of CDL drivers in their industry, and the fact that ground water well companies are, for the most part, already conducting in-house driver training. They further cited the added costs of the ELDT requirements, which they assert discourage younger individuals from seeking and applying for a CDL in their industry.

VI. Equivalent Level of Safety Analysis and Decision

FMCSA denies the exemption. Although the NGWA stated that it would provide on-the-job ''safe driver'' training to drivers covered by the exemption prior to obtaining their CDL, NGWA did not provide any details of that training or explain how such training would provide an equivalent or greater level of safety as compliance with the existing regulations, as required by 49 CFR 381.310(c)(5). FMCSA therefore has no basis to conclude that the training would likely ensure an equivalent or greater level of safety as would be achieved absent the exemption, as required by statute (49 U.S.C. 31315(b)(1)).

For the above reasons, NGWA's exemption application is denied.

Robin Hutcheson,

Administrator.

[FR Doc. 2023–00445 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0212; FMCSA–2014–0215; FMCSA–2015–0323; FMCSA–2016–0007; FMCSA–2018–0052; FMCSA–2018–0053; FMCSA–2018–0054; FMCSA–2020–0050; FMCSA–2020–0051]

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 15 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: The exemptions were applicable on November 27, 2022. The exemptions expire on November 27, 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–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051) 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), 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 29, 2022, FMCSA published a notice announcing its decision to renew exemptions for 15 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 73392). The public comment period ended on December 29, 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 that is 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 proceeding. However, FMCSA is aware Mr. Keith Hubbard's state of licensure was incorrectly stated in the November 2022 notice. Mr. Hubbard's state of licensure has been corrected in this notice exempting him from the seizure standard in § 391.41(b)(8).

IV. Conclusion

Based on its evaluation of the 15 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of November 27, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 15 individuals have satisfied the renewal conditions for obtaining 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 the FMCSRs for interstate CMV drivers (87 FR 73392):

Thomas Avery (NY)
Scott Baggarley (WA)
Kevin Beamon (NY)
Joshua Cirilo (MN)
Paul Gomez (CA)
Jesse Hansen (MN)
Donald Horst (MD)
Keith Hubbard (WV)
Billy Hunter (KY)
Chad Knott (MD)
Louis Lerch (IA)
Rick Morrison (NC)
Thomas Ork (NY)
Curtis Palubicki (MN)
Devyn Roberts (KY)

The drivers were included in docket number FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051. Their exemptions were applicable as of November 27, 2022 and will expire on November 27, 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. 2023–00446 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0442; FMCSA–2015–0116; FMCSA–2015–0323; FMCSA–2016–0007; FMCSA–2018–0053]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for six 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 stated in the discussions below. Comments must be received on or before February 13, 2023.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2013–0442, Docket No. FMCSA–2015–0116, Docket No. FMCSA–2015–0323, Docket No. FMCSA–2016–0007, or Docket No. FMCSA–2018–0053 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2013–0442, FMCSA–2015–0116, FMCSA–2015–0323, FMCSA–2016–0007, or FMCSA–2018–0053) 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 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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2013–0442, Docket No. FMCSA–2015–0116, Docket No. FMCSA–2015–0323, Docket No. FMCSA–2016–0007, or Docket No. FMCSA–2018–0053), 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/,* insert the docket number (FMCSA–2013–0442, FMCSA–2015–0116, FMCSA–2015–0323, FMCSA–2016–0007, or FMCSA–2018–0053) in the keyword box and click ''Search.'' 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–2013–0442, FMCSA–2015–0116, FMCSA–2015–0323, FMCSA–2016–0007, or FMCSA–2018–0053) 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), 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 also 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 physical qualification standard for drivers regarding epilepsy found in 49 CFR 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.

The six individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

[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.*

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the six applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The six drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for commercial driver's license (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of December and are discussed below.

As of December 3, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Ricky Alegre (NJ)
Michael Grant (SC)
Thomas Mitchell (MS)
Joseph Thomas (MD)

The drivers were included in docket number FMCSA–2013–0442, FMCSA–2016–0007, or FMCSA–2018–0053. Their exemptions were applicable as of December 3, 2022 and will expire on December 3, 2024.

As of December 16, 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:

Charles Gray (OK) and Kyle Loney (WA).

The drivers were included in docket number FMCSA–2015–0116 or FMCSA–2015–0323. Their exemptions were applicable as of December 16, 2022 and will expire on December 16, 2024.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (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 § 390.5; 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. The exemption will be rescinded if: (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 before it was 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).

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 on its evaluation of the six exemption applications, FMCSA renews the exemptions of the aforementioned 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), each exemption will be

valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–00442 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0135]

Entry Level Driver Training: Railsback HazMat Safety Professionals, LLC; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the application submitted by Rex Railsback, Owner, Railsback HazMat Safety Professionals, LLC (Railsback HMSP), for an exemption from the theory instructor qualification requirements in the entry-level driver training (ELDT) regulations. The exemption will allow Mr. Railsback to conduct theory (*i.e.,* classroom) training for driver trainees seeking to obtain a hazardous materials endorsement on their commercial driver's license (CDL). The exemption excuses Mr. Railsback from the requirement that a driver training instructor must possess a CDL with all applicable endorsements to perform ELDT theory instruction and meet applicable state qualification requirements for commercial motor vehicle (CMV) instructors. FMCSA concluded that granting the exemption is likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: The exemption is effective from January 12, 2023 through January 12, 2028.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366–2722; *richard.clemente@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0135'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''View Related Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0135'' in the keyword box, click ''Search,'' and chose the document to review.

If you do not have access to the internet, you may view the docket 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, 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The ELDT regulations, implemented on February 7, 2022, and set forth in 49 CFR 380, subparts F and G, established minimum training standards for individuals applying for certain CDLs and defined curriculum standards for theory and behind-the-wheel (BTW) training. The ELDT regulations also established an online training provider registry (TPR), eligibility requirements for providers to be listed on the TPR, and requirements for instructors. Under 49 CFR 380.713, a training provider must use instructors who meet the definition of ''theory instructor'' in 49 CFR 380.605. The definition requires that the instructor hold a CDL of the same (or higher) class, with all endorsements necessary to operate the commercial motor vehicle (CMV) for which training is to be provided, and have either: (1) a minimum of 2 years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement; or (2) at least two years of experience as a BTW CMV instructor. In addition, the instructor must meet applicable state qualification requirements for CMV instructors. The definition also includes an exception to the requirement that a theory instructor currently possess an applicable CDL, if the instructor previously held a CDL and meets the other qualification requirements. The regulations were based in part on consensus recommendations from the Agency's ELDT Advisory Committee (ELDTAC), a negotiated rulemaking committee.

Applicant's Request

Rex Railsback, Owner, Railsback HazMat Safety Professionals, LLC, requests an exemption from the requirement that a driver training instructor must possess a CDL with all applicable endorsements to perform ELDT theory instruction. Mr. Railsback would perform theory (*i.e.,* classroom) training of 49 CFR parts 100–185 relating to the transportation of hazardous materials (HM) for driver trainees seeking to obtain a hazardous materials endorsement on their CDL.

IV. Method To Ensure an Equivalent or Greater Level of Safety

Mr. Railsback states that his experience and expertise in the HM field would be equal to or supersede theory training offered by others and would enhance the safety of HM transportation for prospective driver trainees. Mr. Railsback provided the following list of his credentials in his application for exemption to the Agency:

- Over 24 years' experience as a certified truck inspector holding certifications in Commercial Vehicle Safety Alliance (CVSA) NAS Inspection Part A and B, General Hazardous

Materials, Cargo Tank Inspection and other Bulk Packaging Inspection;

- 20 years' experience as an FMCSA, National Training Center (NTC) North American Standard (NAS) Inspection Part B and HM Instructor;
- 5 years' experience as an FMCSA, NTC Master Instructor for NAS Inspection Part A and B, General HM, Cargo Tank Inspection, and other Bulk Packaging Inspection;
- 14 years' experience as an FMCSA, NTC Instructor Development Coach;
- 9 years' experience conducting compliance reviews, specializing in HM carriers and shippers;
- 5 years' experience conducting Cargo Tank facility reviews;
- Member and subject matter expert for several FMCSA, NTC course development and update working groups;
- Previous Region III COHMED Chairman;
- Previous COHMED International Chairman;
- Former Lead MCSAP Trainer, Training Coordinator and Training Lieutenant for the Kansas Highway Patrol Troop 1;
- Certified civilian CVSA Hazardous Materials Instructor (HMIT).

V. Public Comments

On July 8, 2022, FMCSA published notice of the Rex Railsback application and requested public comment [87 FR 40876]. The Agency received eight comments. Six individual respondents submitted comments favoring the exemption application, while the Owner-Operator Independent Drivers Association (OOIDA) and one other individual commenter filed in opposition to the request.

Those individuals who filed in support cite Mr. Railsback's numerous years as a recognized industry expert in the field of HM training, including his previous employment with the Kansas Highway Patrol, his time as an active member of the CVSA and the Pipeline and Hazardous Materials Administration, and the Cooperative Hazardous Materials Enforcement Development (COHMED) programs. One individual commenter, Nick Wright, who filed in support of the exemption request, stated:

> While Mr. Railsback does not possess a CDL as required by the ELDT regulations, he is not requesting to teach new CDL applicants how to operate commercial vehicles. Instead, he is intending to instruct the classroom portion (*i.e.,* ''theory'') about the safe and legal transportation of HM/dangerous goods aboard commercial motor vehicles. Mr. Railsback's application and list of qualifications he provided with his application is only a drop in the bucket of his actual qualifications and knowledge. Mr. Railsback served as a state trooper for the Kansas Highway Patrol, during which the majority of his career was spent as a commercial vehicle inspector and instructor. Mr. Railsback has instructed, led, and mentored countless inspectors and instructors across the United States throughout his career. Mr. Railsback is well known nationwide as an authority on commercial vehicle regulations, with a strong emphasis and specialty on HM regulations. I have never met another person with the level of knowledge and experience with the HM regulations, both the classroom instruction portion and real-world hands-on experience in the field applying the regulations, as Mr. Railsback. During Mr. Railsback's career I considered him THE authority on hazardous materials regulations.

Five other individual commenters filed comments echoing support of the exemption request, for similar reasons.

OOIDA commented in opposition citing several reasons, including OOIDA's participation as a primary industry stakeholder on the ELDTAC when the ''framework'' of the ELDT rule was agreed upon. OOIDA noted its support for the provision in the final ELDT rule that required CDL experience for training instructors, stating that ''we feel there is no substitute for an experienced behind-the-wheel trainer and employing these instructors will help achieve the objectives of the ELDT rulemaking.'' One other individual commenter opposed the exemption request, stating that while Mr. Railsback is a ''well-qualified HM instructor,'' he is not a qualified theory instructor under Part 380 because he has never held a CDL.

VI. FMCSA Response to Comments and Decision

FMCSA has evaluated Rex Railsback's application for exemption and the filed public comments and has independently verified Mr. Railsback's credentials. FMCSA grants the exemption. While OOIDA commented in opposition regarding the experience requirements in the ELDT regulations for training instructors, it bears note that for a theory instructor for HM training, there is no BTW training involved, as there is no skills test for an HM endorsement. Mr. Railsback has extensive experience teaching HM-related subjects and is a widely acknowledged subject matter expert in the transportation of hazardous materials by CMV. Further, because the theory instruction curriculum for the H endorsement does not include any BTW training, the Agency believes that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with § 381.305(a).

Extent of the Exemption

This exemption is granted to Mr. Rex Railsback as the owner of Railsback HMSP. The exemption from the requirement in 49 CFR 380.713(a) that training instructors must utilize theory instructors meeting the qualification requirements set forth in the definition of ''theory instructor'' in 49 CFR 380.605, will allow Mr. Railsback, through Railsback HMSP, to provide ELDT theory instruction for the H endorsement curriculum in Appendix E of Part 380 without meeting these requirements. The exemption is effective January 12, 2023 through January 12, 2028.

Robin Hutcheson,

Administrator.

[FR Doc. 2023–00444 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2022–0035]

Guidance on Development and Implementation of Railroad Capital Projects

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of final guidance.

SUMMARY: FRA is publishing final guidance on the development and implementation of railroad capital projects that may be funded, in whole or in part, by FRA (''final guidance''). This final guidance follows publication of the proposed guidance (''proposed guidance'') on June 28, 2022.

ADDRESSES: The final guidance is available at *https://regulations.gov* under docket number FRA–2022–0035.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Mr. David Valenstein, Office of Railroad Development, at *david.valenstein@dot.gov* or 202–493–6368; or Mr. Michael Longley, Office of Rail Program Development, at *michael.longley@dot.gov* or 202–493–6377.

SUPPLEMENTARY INFORMATION:

I. Overview

Over the next five years, the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, also known as the ''Bipartisan Infrastructure Law'') will provide unprecedented Federal funding

for rail improvement projects in America. As a result, FRA has identified the need to establish clear practices and procedures for the development and implementation of railroad capital projects through the issuance of agency guidance. FRA published a notice of proposed guidance titled Guidance on Development and Implementation of Railroad Capital Projects (87 FR 38451, June 28, 2022) seeking stakeholder feedback on the content and applicability of the proposed guidance. FRA's consideration of comments and associated revisions to the guidance are described in Section II. FRA is now publishing the final guidance.

The final guidance will assist project sponsors in developing effective capital projects and enhance the management of capital projects. The audience of the final guidance includes project sponsors and partners, as well as the wide range of professionals who contribute to the planning, development, and implementation of railroad capital projects. The final guidance: (1) defines the stages in the railroad capital project lifecycle and project development process from inception to operation; (2) describes the project management tools, processes, and documentation that FRA requires when providing grants that fund the development or implementation of a railroad capital project; (3) differentiates between Non-Major projects and Major projects by defining a ''Major Project'' as a railroad capital project with a Capital Cost Estimate equal to or greater than $500 million and with at least $100 million in total Federal assistance.

FRA strongly encourages project sponsors to follow the final guidance when developing, implementing, and managing railroad capital projects. FRA may use the final guidance to inform its grant application reviews and decisions in accordance with a process described in a notice of funding opportunity for the relevant grant program and may require compliance with the guidance as part of grant agreements funding railroad capital projects in accordance with 2 CFR parts 200 and 1201. The practices contained in the guidance draw from FRA's experience and from established programs of other DOT operating administrations that have enhanced the delivery of major highway and transit projects.

FRA is adopting the guidance largely as it was proposed, with changes to the guidance text as discussed in Section II.

II. Discussion of Public Comments

FRA received a total of nine comments on the proposed guidance: eight generally supported the proposed guidance and provided feedback, and one was considered outside of the scope of the proposed guidance. FRA received comments from the following respondents: American Association of State Highway and Transportation Officials (AASHTO); American Public Transportation Association (APTA); National Railroad Passenger Corporation (Amtrak); Association for Innovative Passenger Rail Operations (AIPRO); Brotherhood of Maintenance of Way Employees Division/International Brotherhood of Teamsters (BMWED/IBT); California High-Speed Rail Authority (CHSRA); Front Range Passenger Rail District (comments were intended for Docket #FRA–2022–0031 and are not addressed here); Metropolitan Transportation Authority (MTA); and New Jersey Transit (NJT).

A. Definitions

Several commenters provided feedback on the definitions established in Section II of the proposed guidance, as summarized below.

1. Major Project, Section II(a). The proposed guidance defined ''major project'' as a railroad capital project with an estimated total project cost equal to, or greater than, $300 million, and receiving at least $100 million in Federal assistance. CHSRA, Amtrak, and APTA suggested a change from the $300 million total project cost threshold to $500 million for consistency with the Federal Highway Administration (FHWA) definition and the USDOT Mega grant program.[1] Amtrak also suggested amending the cutoff in Federal assistance from $100 million to $250 million for Major Projects. FRA agrees there is value in creating consistency with FHWA and Mega program definitions and therefore changed the major project definition threshold from $300 million to $500 million in the final guidance. However, the final guidance retains the secondary threshold of $100 million in Federal assistance as it more closely aligns with the Federal threshold share used by the Federal Transit Administration (FTA).

2. Project Sponsor, Section II(c). APTA recommended that FRA revise the definition of Project Sponsor to allow for joint or multiple sponsors. BMWED recommended adding compliance with FRA grant labor requirements to the definition of project sponsor. FRA made no changes to the definition of project sponsor in the final guidance. The proposed definition is broad enough to accommodate multiple project sponsors and the labor requirements described in BMWED's comment are imposed through existing laws and authorities as well as through the terms and conditions of individual grant agreements.

3. Capital Cost Estimate, Section II(f). APTA recommended including operations and maintenance costs in the capital cost estimate. FRA made no changes to the final guidance in response to this comment. The capital cost estimate is for delivery of the capital project, which typically does not include operations and maintenance costs. However, those costs are accounted for elsewhere in the guidance. For example, the project development stage includes analysis of benefits and costs that would include operations and maintenance costs for the project. In addition, maintenance costs are separately addressed in the project management plan and the financial plan.

4. Financial Plan, Section II(g). The definition of financial plan in the proposed guidance stated that for projects involving debt-based financing, the financial plan identifies the up-front capital for the project. MTA asked for clarification that the financial plan identifies all project funds rather than the up-front capital. In response, FRA revised the language in the definition in the final guidance to clarify that the financial plan identifies all project funds for the project.

B. Application of the Guidance

APTA, MTA, and CHSRA sought clarification that project sponsors should be able to self-certify compliance with the guidance (for example, self-certify that stages have been completed, documentation prepared, or program requirements have been met). FRA made no changes to the proposed guidance in response to this comment. The final guidance states that FRA will address application of the guidance in grant agreements, including when FRA will permit self-certification. CHSRA also suggested the guidance clarify that it would not apply retroactively to projects that are already in development or subject to a grant agreement. FRA did not make changes the final guidance in response to this comment, since Section I(b) of the guidance states FRA may require compliance with the guidance as part of grant agreements or notice of funding opportunity.

[1] The Mega program supports large, complex projects that are difficult to fund by other means and are likely to generate national or regional economic, mobility, or safety benefits. More information on the Mega program can be found at *https://www.transportation.gov/grants/mega-grant-program.*

C. Comments on Project Lifecycle

Several commenters provided feedback on the Project Lifecycle Stages in Sections III and IV of the guidance, as summarized below.

1. Lifecycle Stages, Section III. APTA, Amtrak and CHSRA asked for flexibility in combining stages and for clarity about when procurement happens. Amtrak and CHSRA also asked about how innovative delivery methods flow through and change the stages. In response, FRA revised the final guidance to clarify that procurement may be initiated in the project development stage of the lifecycle and specify that Project Sponsors may use innovative contracting and delivery methods.

2. Project Planning, Section IV(b). Amtrak asked to change the language about design in planning and project development to align with their grant process. FRA made clarifying edits to the final guidance in this section but did not make all changes requested, because FRA will continue to work to align all grants, including those to Amtrak, with this guidance.

3. Final Design, Section IV(d). Amtrak suggested including final design as part of the development stages in the project lifecycle rather than as part of the implementation stages. FRA did not change the final guidance in response to this suggestion. The final guidance is consistent with FRA's approach regarding final design and construction as implementation stages in its grant programs.

4. Operations, Section IV(f). APTA suggested changing the name of the final stage from ''Operation'' to ''Operation and Maintenance.'' In response, FRA added a reference to maintenance in the description of the operation stage in the final guidance.

D. Comments on Lifecycle Completion Measures

Several commenters provided feedback on the Project Lifecycle Completion Measures in Section IV of the guidance. NJT proposed that the guidance include ''commissioning'' as a part of construction completion. FRA agrees and revised Section IV(e) of the final guidance to include commissioning as part of construction completion.

Amtrak and CHSRA commented that criteria or processes for determining completion of each lifecycle stage should be added to the guidance. FRA did not add prescriptive criteria or processes that determine the completion of each lifecycle stages in order to provide flexibility for a range of projects.

E. Comments on Project Management Tools

Several commenters provided feedback on the Project Management Tools in Section V of the guidance.

1. Project Management Plan (PMP), Section V(b). Several commenters suggested that the PMP should allow for flexibility to define project budgets. FRA finds that no change is necessary because the final guidance does not specify how Project Sponsors structure budgets, providing the appropriate flexibility. BMWED asked that that statutorily mandated employee protections be recognized in the PMP. FRA recognizes the importance of these statutorily mandated employee protections but believes they are more appropriately addressed in the context of the grant agreement and are thus outside of the scope of the guidance. However, FRA added a workforce sub-plan element to the PMP for major projects to address railroad labor forces required to implement the project, if applicable.

2. Capital Cost Estimate, Section V(d). NJT, APTA, and MTA commented that the capital cost estimate should use a midpoint of construction instead of year-of-expenditure. FRA agrees and revised the text accordingly. MTA suggested the final guidance specify that the independent party conducting major project risk reviews may be Project Sponsor internal staff independent from the project team. FRA did not incorporate the suggestion to allow Project Sponsor staff to conduct the risk review into the final guidance; FHWA and FTA practice is for independent parties to conduct the risk review for Federally funded projects and the guidance is consistent with this approach. MTA also suggested that FRA oversight of risk review be limited to FRA participation in a workshop led by the Project Sponsor. This approach would also be inconsistent with FHWA and FTA practice of direct Federal agency involvement or leadership of the entire risk review for Federally funded projects. Therefore, FRA did not modify the final guidance in response to this comment.

3. Financial Plan, Section V(e). APTA and MTA sought certainty that documenting the ''availability of funding'' in the Initial Financial Plan means that all required approvals for funding from governing bodies have been secured, such as an approved capital plan. FRA determined the suggested edits are unnecessary because the guidance addresses availability of funding and associated documentation in Section V(e)(ii)(A)(4), which provides as examples official board resolution or an adopted budget committing the funds to the project, or evidence that the project and funding amounts are included in the sponsor's adopted multi-year capital program. APTA and MTA also suggested adding internal project sponsor review of the Initial Financial Plan and annual updates that the project sponsor self-certifies. FRA did not modify the final guidance in response to this comment because self-certification measures, if appropriate, would be addressed in the grant agreement.

F. Comments on Project Delivery and Public Private Partnerships

Several commenters provided feedback on the lifecycle progression of project delivery planning and implementation. CHSRA, APTA, and Amtrak sought clarification on when procurement happens and how innovative delivery is recognized in the lifecycle stages. FRA made edits to Section III.a. to recognize sponsor flexibilities, early procurements, and early works.

BMWED commented that the guidance should specify railroad labor organizations as stakeholders in project planning and consider labor from initial construction to established maintenance. FRA made edits to Section V.b by modifying the PMP contents to address labor agreements at Section V.b. BMWED also proposed that the guidance require Project Sponsors to be Railroad Labor Act (RLA) at 45 U.S.C. 151 *et seq.,* Railroad Retirement Act (RRA) at 45 U.S.C. 231 *et seq.,* and Railroad Unemployment Insurance Act (RUIA) 45 U.S.C. 351 *et seq.* compliant and employ railroad employee protections. FRA finds that no change to the guidance is necessary because grant programs address statutory railroad labor requirements.

G. Other Comments

FRA received several miscellaneous comments to enhance the guidance.

1. Amtrak suggested broadening the guidance to address technology integration and other project types. In response, FRA amended the construction stage definition at Section IV(e) and the PMP language at Section V(b).

2. APTA commented that the guidance should address climate resilience. FRA responded by adding resilience consideration to the project planning and project development at Sections IV(b) and (c), respectively.

3. AIPRO, NJT, and APTA commented that effective maintenance should be recognized in early analyses and the

operations stage. FRA made several changes to the final guidance to incorporate maintenance. FRA amended the description of the Project Development stage in Section IV(c)(ii)(c) to state that the PMP should include maintenance agreements and made related revisions to the PMP content language at Section V(b)(i). FRA also amended the description of the operations stage to clarify that maintenance of assets is part of operations in Section IV.f.

4. BMWED commented that capital projects that are fully covered by RLA, RRA, and RUIA should be prioritized. FRA finds that no change is necessary because grant programs address statutory labor requirements.

Issued in Washington, DC.

Paul Nissenbaum,

Associate Administrator, Office of Railroad Development.

[FR Doc. 2023–00508 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA–2021–0010]

Notice of Availability of Final Initial Updated Policy Guidance for the Capital Investment Grants Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of final initial updated Capital Investment Grants program policy guidance.

SUMMARY: The Federal Transit Administration (FTA) is making available, on its website and in the docket, final initial updates to the Capital Investment Grants (CIG) program policy guidance. These revisions amend FTA's CIG Final Interim Policy Guidance last published in June 2016 to reflect changes made to the program by the Infrastructure Investment and Jobs Act (IIJA), also known as the ''Bipartisan Infrastructure Law''. In March 2022, FTA published initial guidance proposals for implementing changes made to the CIG program by the IIJA for public comment. FTA appreciates the thoughtful comments received and has incorporated some of the suggestions into the initial updated CIG program policy guidance. FTA is placing formal responses to the comments received in the docket. This policy guidance continues to complement FTA's regulations that govern the CIG program.

DATES: This final initial guidance is effective January 12, 2023.

FOR FURTHER INFORMATION CONTACT: Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366–5159 or *Elizabeth.Day@dot.gov.*

SUPPLEMENTARY INFORMATION: This final initial guidance document contains binding obligations, which 49 U.S.C. 5334(k) defines as ''a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.'' Under 49 U.S.C. 5334(k), FTA may issue binding obligations if it follows notice and comment rulemaking procedures under 5 U.S.C. 553. Prior to making the amendments announced today, FTA followed such procedures. The policy guidance that FTA periodically issues for the CIG program complements the FTA regulations that govern the CIG program, codified at 49 CFR part 611. The regulations set forth the process that grant applicants must follow to be considered for discretionary funding under the CIG program, and the procedures and criteria FTA uses to rate and evaluate projects to determine their eligibility for discretionary CIG program funding. The policy guidance provides a greater level of detail about the methods FTA uses and the sequential steps a sponsor must follow in developing a project.

In March 2022, FTA sought comment on three initial proposed changes to FTA's CIG Final Interim Policy Guidance last issued in June 2016 (87 FR 14612). The three proposals were related to changes made by the IIJA to 49 U.S.C. 5309 and included: eligibility as a Core Capacity project; how FTA will determine that a CIG project sponsor has demonstrated progress on meeting Transit Asset Management and State of Good Repair targets; and how bundles of CIG projects can enter the Project Development phase of the program. The initial updated CIG program policy guidance is being made available today on the agency's public website at *https://www.transit.dot.gov/funding/grant-programs/capital-investments/capital-investment-grants-program-regulations-guidance,* and in the docket at *https://www.regulations.gov/docket/FTA-2021-0010/.* Additionally, FTA's response to the comments received on the initial proposed changes are available in the docket. No other changes are being made to the CIG program policy guidance at this time. FTA intends to propose a more comprehensive update of the CIG program policy guidance for notice and comment in the future. That proposed update will incorporate feedback FTA received in response to its Request for Information published in the **Federal Register** in July 2021 (86 FR 37402). The three topics covered in the final initial updated CIG program policy guidance are intended to assist FTA in managing the CIG program in the near term while the more comprehensive CIG program policy guidance changes are developed and proposed.

Nuria I. Fernandez,

Administrator.

[FR Doc. 2023–00533 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA–2023–0001]

Notice of Establishment of Emergency Relief Docket for Calendar Year 2023

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: By this notice, the Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2023, so grantees and subgrantees affected by a national or regional emergency or disaster may request temporary relief from FTA administrative and statutory requirements.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Graves, Attorney-Advisor, Office of Chief Counsel, Federal Transit Administration, 90 Seventh Street, Ste. 15–300, San Francisco, CA 94103; phone: (202) 366–0944, or email, *Bonnie.Graves@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 49 CFR 601.42, FTA is establishing the Emergency Relief Docket for calendar year 2023. In the case of a national or regional emergency or disaster, or in anticipation of such an event, when FTA requirements impede a grantee or subgrantee's ability to respond to the emergency or disaster, a grantee or subgrantee may submit a request for relief from specific FTA requirements.

If FTA determines that a national or regional emergency or disaster has occurred, or in anticipation of such an event, FTA will place a message on its web page (*http://www.transit.dot.gov*) indicating that the Emergency Relief Docket has been opened and including the docket number.

All petitions for relief from FTA administrative or statutory requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly available and can be accessed 24 hours a day, seven days a week, via the internet at *www.regulations.gov.* Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA–2023–0001.

Interested parties may consult 49 CFR part 601, subpart D for information on FTA's emergency procedures for public transportation systems. FTA strongly encourages grantees and subgrantees to contact their FTA regional office and notify FTA of the intent to submit a petition to the docket.

A grantee or subgrantee seeking relief has three avenues for submitting a petition. First, a grantee or subgrantee may submit a petition for waiver of FTA requirements to *www.regulations.gov,* for posting in the docket (FTA–2023–0001). Alternatively, a grantee or subgrantee may submit a petition in duplicate (two copies) to the FTA Administrator, via U.S. mail or hand delivery to Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590; via fax to (202) 366–3472; or via email to *Bonnie.Graves@dot.gov;* or via U.S. mail or hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590. Thirdly, in the event that a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

Federal public transportation law at 49 U.S.C. 5324(d) provides that a grant awarded under Section 5324, or under 49 U.S.C. 5307 or 49 U.S.C. 5311, that is made to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. This language allows FTA to waive certain statutory, as well as administrative, requirements.

An FTA grantee or subgrantee receiving financial assistance under 49 U.S.C. 5324, 5307, or 5311 that is affected by a national or regional emergency or disaster may request a waiver of provisions of Chapter 53 of Title 49 of the United States Code in connection with such financial assistance, when a grantee or subgrantee demonstrates that the requirement(s) will limit a grantee's or subgrantee's ability to respond to a national or regional emergency or disaster.

Pursuant to 49 CFR 601.42, a grantee or subgrantee must include certain information when requesting a waiver of statutory or administrative requirements. A petition for relief shall:

(a) Include the agency name (Federal Transit Administration) and docket number FTA–2023–0001;

(b) Identify the grantee or subgrantee and its geographic location;

(c) Identify the section of Chapter 53 of Title 49 of the United States Code, or the portion of an FTA policy statement, circular, guidance document or rule, from which the grantee or subgrantee seeks relief;

(d) Specifically address how a requirement in Chapter 53 of Title 49 of the United States Code, or an FTA requirement in a policy statement, circular, agency guidance or rule, will limit a grantee's or subgrantee's ability to respond to a national or regional emergency or disaster; and

(e) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

Pursuant to 49 CFR 601.46, a petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted regarding the petition. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and any comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

A petition for relief from statutory requirements will not be conditionally granted and requires a written decision from the FTA Administrator. Further, grantees seeking a waiver from Buy America requirements must follow the procedures in 49 CFR 661.7 and 661.9. Buy America waivers will not be granted through the Emergency Relief Docket.

An FTA decision, either granting or denying a petition, shall be posted in the Emergency Relief Docket and shall reference the document number of the petition to which it relates. FTA reserves the right to reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three-business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall notify the grantee or subgrantee if FTA plans to reconsider a decision.

Pursuant to FTA's Charter Rule at 49 CFR 604.2(f), grantees and subgrantees may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor or mayor, or in an emergency requiring immediate action prior to a formal declaration, even if a formal declaration of an emergency is not eventually made by the President, governor or mayor. Therefore, a request for relief is not necessary in order to provide this service. However, if the emergency lasts more than 45 calendar days and the grantee will continue to provide service that would otherwise be considered charter service, the grantee or subgrantee shall follow the procedures set out in this notice.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Grantees and subgrantees should refer to FTA's regulations, including 49 CFR part 601, for requirements for submitting a request for emergency relief.

Nuria I. Fernandez,

Administrator.

[FR Doc. 2023–00459 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0108]

Agency Information Collection Activities; Notice and Request for Comment; Older Driver Rearview Video Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a reinstatement of previously approved information collection.

SUMMARY: NHTSA invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a reinstatement with modification of a previously approved information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval on Older Driver Rearview Video Systems.

DATES: Comments must be submitted on or before March 13, 2023.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2022–0108 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 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. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Kathy Sifrit, Ph.D., Contracting Officer's Representative, Office of Behavioral Safety Research (NPD–320), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, W46–470, Washington, DC 20590. Dr. Sifrit's phone number is 202–366–0868, and her email address is *Kathy.Sifrit@dot.gov*. Please identify the relevant collection of information by referring to its OMB Control Number (2127–0731).

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (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) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Older Driver Rearview Video Systems.

OMB Control Number: 2127–0731.

Form Number(s): Forms 1398 and 1399.

Type of Request: Reinstatement with modification of a previously approved information collection (OMB Control No. 2127–0731).

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration of the U.S. Department of Transportation is seeking approval to reinstate an information collection to recruit 120 older licensed drivers, 60 between ages 60 and 69 and 60 age 70 and older, for a one-time voluntary research study to assess whether training on the use of Rear Video Systems (RVS) improves the ability of older drivers to back safely. NHTSA expects 180 volunteers will complete screening over the telephone or in-person to determine their eligibility for the study. Recruiting participants for the reinstated collection has an estimated burden of 15 hours (five minutes per respondent). NHTSA expects that among the 180 who are screened, 120 will be eligible and willing to participate in the study. These 120 participants will complete informed consent forms (15 minutes per participant or 30 burden hours), participate in either RVS training or an equal-time placebo group (30 minutes per participant or 60 burden hours), and complete a series of backing tacks on a closed test-track (60 minutes per participant or 120 burden hours). The overall expected burden for screening (15 hours) and the experiment (210 hours) is 225 hours.

NHTSA previously obtained clearance from OMB to conduct the information collections for Parts 1 and 2 of this one-time study. However, NHTSA was unable to complete Part 2 of the study as a result of the public health emergency in 2020 and 2021. The requested reinstatement is 135 fewer burden hours than the previous information collection request because the requested reinstatement is for Part 2 only (120 participants and 225 hours) rather than Parts 1 and 2 (200 participants and 360 hours). The reinstatement requests fewer burden hours because NHTSA previously completed the first part of this collection by observing older drivers

while backing for the development of training. NHTSA is now requesting a reinstatement to allow it to complete the second part, which assesses the effects of the training. NHTSA will use the information to produce a technical report containing summary statistics and tables and will not report identifying information or individual responses. NHTSA will make the technical report available to a variety of audiences interested in improving highway safety through the agency website and the National Transportation Library. This project involves approval by an institutional review board, which the contractor will obtain before contacting potential participants. This collection will inform the development of behavioral safety countermeasures to improve older driver safety, particularly older driver training.

Description of the Need for the Information and Proposed Use of the Information: Older adults comprise an increasing proportion of the driving population.[1] The independent mobility that driving confers improves older adults' access to the goods and services they need and enhances their ability to take part in community and family activities that support quality of life. New vehicle technologies, like RVS, may help compensate for some age-related deficits and keep older adults driving safely.

The theory underpinning the assumption that older drivers have an elevated safety risk associated with backing crashes is based upon known age-related deficits. Many older drivers have musculoskeletal difficulties that limit their ability to turn and scan behind the vehicle. For example, Chen et al. (2015) found that older drivers had less neck and trunk rotation and were less successful in detecting targets requiring body rotation in a driving simulator.[2] Aging also diminishes the visual search, visual information processing, and divided attention capabilities needed to be alert to possible conflicts from cross traffic when backing from a driveway or parking space. Deficits in visual scanning among older drivers have been reported in numerous studies. For example, Pollatsek et al. (2012) found that older drivers were less likely to focus their visual attention on areas with potential hazards than younger experienced drivers at intersections in a simulator and on-the-road.[3]

An analysis of NHTSA's Non-Traffic Surveillance from 2012 through 2014 indicated that older drivers were involved in an estimated 19,000 backing crashes a year that resulted in death or injury. This represented 22% of all non-traffic backing crashes. Older drivers represented 17% of all licensed drivers but accounted for 22% of all non-traffic backing crashes during this period, indicating an over-representation in non-traffic backing crashes per licensed driver. Studies have found that the most frequent error among older drivers involved in crashes is failure to yield the right-of-way. For example, Cicchino and McCartt (2015) found that ''the most frequent error made by crash-involved drivers ages 70 and older was inadequate surveillance, which included looking but not seeing and failing to look.''[4] The fact that older drivers are at elevated risk of crashes due to inadequate surveillance compared to younger drivers may explain their over-representation in backing crashes per licensed driver.

RVS is expected to offer more potential benefits to older drivers than younger drivers because older drivers have more room for improvement due to the age-related decline in the ability to rotate one's body. It may also compensate for the fact that older drivers are more likely to have inadequate surveillance or scanning than younger drivers. One published article addressed this question. Cichino (2017) found that RVS reduced backing crash involvement among drivers 70 and older by 36% compared to 16% for drivers younger than 70, but the difference was not statistically significant. The study also found that backing sensors reduced backing crash involvement for drivers 70 and older by 38% compared to no effectiveness for drivers younger than 70, which was a statistically significant difference.[5]

Affected Public: The potential respondent universe is comprised of all residents of the New River Valley and Roanoke Valley regions in Virginia who are age 60 and older. From this universe, the new data collection screening questionnaire will be administered to an estimated 180 potential participants to qualify a total sample of 120 volunteer drivers, 60 between ages 60 and 69 and 60 who are 70 and older.

Estimated Number of Respondents: The study anticipates screening 180 potential participants to obtain 120 older drivers who meet study inclusion criteria. NHTSA expects to collect information either over the telephone or in-person from up to 180 potential participants to determine their eligibility for the study. Based upon previous research experience in the study area, an estimated 120 potential participants (65% of those who respond to screener questions) will be eligible and interested. The 120 participants are expected to consent and complete the study.

Frequency: This study is a one-time information collection, and there will be no recurrence.

Estimated Total Annual Burden Hours: 225 hours.

Estimated Total Annual Burden Cost: $6,057.

The contractor will use a screening questionnaire (Form 1398) to identify 120 drivers (60 between ages 60 and 69 and 60 age 70 and older) who are properly qualified and choose to participate in the study. Participants will answer the screening questionnaire items either over the phone or in person to determine if they qualify for the study. Respondents are expected to take an estimated average of 5 minutes to complete the initial screening resulting in 15 burden hours for screening up to 180 potential participants. It is estimated that 65% of those who begin the screening process will be eligible and interested in participating. As such, we anticipate screening up to 180 individuals to recruit an estimated 120 potential participants for the consenting process. The consenting process includes an overview of the study and an explanation of the form (Form 1399). Respondents are expected to take an average of 15 minutes for the consenting process including reviewing and completing the form resulting in 30 burden hours. The 120 participants will complete study activities with an estimated burden of 90 minutes per participant for a total estimated burden of 180 hours.

Table 1 describes the calculation of the estimated burden hours for a total of 225 annual hours. To calculate the opportunity cost to participants in this study, NHTSA used the average (mean)

[1] National Center for Statistics and Analysis. (2022, July). 2020 older population fact sheet. (Traffic Safety Facts. Report No. DOT HS 813 341). National Highway Traffic Safety Administration. Available at *https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812372.*

[2] Chen, K.B., Xu, X., Lin J.H., & Radwin, R.G. (2015). ''Evaluation of older driver head functional range of motion using portable immersive virtual reality.'' *Experimental gerontology, 70,* 150–156. *https://doi.org/10.1016/j.exger.2015.08.010.*

[3] Pollatsek, A., Romoser, M.R., & Fisher, D.L. (2012). ''Identifying and remediating failures of selective attention in older drivers.'' *Current directions in psychological science, 21*(1), 3–7. *https://doi.org/10.1177/0963721411429459.*

[4] Cicchino, J.B. and McCartt, A.T. (2015). ''Critical older driver errors in a sample of serious U.S. crashes.'' *Accident analysis and prevention, 80,* 211–219. *https://doi.org/10.1016/j.aap.2015.04.015.*

[5] Cichino, J.B. (2017). ''Effects of rearview cameras and rear parking sensors on police-reported backing crashes.'' *Traffic injury prevention, 18*(8), 859–865. *https://doi.org/10.1080/15389588.2017.1317758.*

hourly earnings from employers in all industry sectors in the State of Virginia, which the Bureau of Labor Statistics lists at $28.92.[6] NHTSA estimated the opportunity cost for each form (and associated study activities) and arrived at a total opportunity cost of $6,057.

TABLE 1—BURDEN ESTIMATES

	Burden (minutes) per respondent	Respondents (reinstated collection)	Total burden hours (reinstated collection)	Total labor costs (reinstated collection)
Form 1398:				
Telephone Screening	5	180	15	$434
Form 1399:				
Informed Consent	*15*	.....	*30*	*868*
Backing Performance Evaluation	*60*	*120*	*120*	*3,470*
Training Protocol/Placebo	*30*	*120*	*60*	*1,735*
Total Form 1399:	.....	*120*	210	6,073
Total estimated burden hours and labor costs	.....	.....	225	6,057

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2023–00460 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Application for Extension of Time To File Certain Employee Plan Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning application for extension of time to file certain employee plan returns.

DATES: Written comments should be received on or before March 13, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include OMB control number 1545–0212 or Application for Extension of Time To File Certain Employee Plan Returns.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File Certain Employee Plan Returns.

OMB Number: 1545–0212.

Form Number: 5558.

Abstract: This form is used by employers to request an extension of time to file the employee plan annual information return/report (Form 5500 series) or the employee plan excise tax return (Form 5330). The data supplied on Form 5558 is used to determine if such extension of time is warranted.

Current Actions: There is no change to the form, however there is an increase in the estimated number of respondents previously approved by OMB.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 671,189.

Estimated Time per Respondent: 1 hours, 11 minutes.

Estimated Total Annual Burden Hours: 798,715 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use

[6] May 2021. See *https://www.bls.gov/oes/current/oes_va.htm#00-0000.*

of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 9, 2023.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2023–00487 Filed 1–11–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 99–43

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information reporting for Nonrecognition Exchanges under Section 897.

DATES: Written comments should be received on or before March 13, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–1660–Rule to be Included in Final Regulations Under Section 897(e) of the Code'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rule to be Included in Final Regulations Under Section 897(e) of the Code.

OMB Number: 1545–1660.

Regulation Project Number: Notice 99–43.

Abstract: Notice 99–43 announced modification of the current rules under Temporary Regulation section 1.897–6T(a)(1) regarding transfers, exchanges and other dispositions of U.S. real property interests in nonrecognition transactions occurring after June 18, 1980. The notice provided that, contrary to section 1.897–6T(a)(1), a foreign taxpayer will not recognize a gain under Code 897(e) for an exchange described in Code section 368(a)(1)(E) or (F), provided the taxpayer receives substantially identical shares of the same domestic corporation with the same divided rights, voting power, liquidation preferences, and convertibility as the shares exchanged without any additional rights or features.

Current Actions: There are no changes in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and corporations.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 200.

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. Comments will be 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 has 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 or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 5, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023–00493 Filed 1–11–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Local Assistance and Tribal Consistency Fund (LATCF)

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on this continuing information collection, as required by the Paperwork Reduction Act of 1995. The public is invited to submit comments on the collection(s) listed below.

DATES: Written comments must be received on or before March 13, 2023.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: 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:

Title: Local Assistance and Tribal Consistency Fund (LATCF).

OMB Control Number: 1505–0276.

Type of Review: Revision of a currently approved collection.

Abstract: Section 605 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021, established the Local Assistance and Tribal Consistency Fund (the ''LATCF''), which appropriates $2 billion in total funding across fiscal years 2022 and 2023 to Treasury to make payments to eligible revenue sharing counties and eligible Tribal governments (collectively, ''eligible governments''). Specifically, for each of fiscal years 2022 and 2023, Treasury shall reserve $250 million of the total amount appropriated to allocate and pay

to eligible Tribal governments and $750 million of the total amount appropriated to allocate and pay to eligible revenue sharing counties. Under this program, recipients have broad discretion on uses of funds, similar to the ways in which they may use funds generated from their own revenue sources.

Form: Records Retention and Access Requirement, Payment Information Forms and associated information; Obligation and Expenditure Reports.

Affected Public: Tribal and County governments.

Estimated Total Annual Burden Hours: 9,249 hours.

Frequency of Response: Once, On Occasion, Annually.

Estimated Total Number of Annual Responses: 8,582.

Estimated Time per Response: 1 hour 5 minutes.

Estimated Total Annual Burden Hours: 9,249.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget 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 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2023–00415 Filed 1–11–23; 8:45 am]

BILLING CODE 4810–25–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: January 19, 2023, 12 p.m. to 3 p.m., Eastern Time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 921 0221 1185, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJYsd-uqrzorEtGskEIbjjq1h4Qxy3jsUawP.*

MATTERS TO BE CONSIDERED: Proposed Agenda

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email, followed by subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For Discussion and Possible Board Action

The proposed Agenda will be reviewed, and the Board will consider adoption.

Ground Rules

➢ Board actions taken only in designated areas on agenda

IV. Approval of Minutes of the December 8, 2022, UCR Board Meeting—UCR Board Chair

For Discussion and Possible Board Action

Draft Minutes from the December 8, 2022 UCR Board meeting will be reviewed. The Board will consider action to approve.

V. Report of FMCSA—FMCSA Representative

The Federal Motor Carrier Safety Administration (FMCSA) will provide a report on relevant activity.

VI. Engagement Letter Between the UCR Plan and the Bradley Law Firm—UCR Executive Director and UCR Board Chair

For Discussion and Possible Board Action

An engagement letter between the UCR Plan and the Bradley Law Firm covering legal services performed by Bradley Law Firm on behalf of the UCR Plan during 2023 will be presented to the UCR Board for its consideration and approval.

VII. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

A. Discuss Options to Replace the Retreat Audit program With a Program That Relies on Roadside Inspection Data—UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair, and DSL Transportation

The UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair, and DSL Transportation will lead a discussion on options to replace the Retreat Audit Program currently utilized by the States with a roadside inspection data driven audit for non-IRP plated commercial motor vehicles and the motor carriers operating this type of registered equipment.

B. Discuss Options to Limit SHB Reporting to Current Registration Year—The UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair, and DSL Transportation

The UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair, and DSL Transportation will lead discussion on limiting the SHB reporting period to the current registration year.

C. Update for Hosting a Monthly Question and Answer Session for State Auditors—UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair, and Executive Director

The UCR Audit Subcommittee Chair, UCR Audit Subcommittee Vice-Chair and UCR Executive Director will lead a discussion regarding the value of a series of 60-minute virtual question and answer sessions for state auditors.

D. Review Snapshot of State Audit Compliance Rates—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will review audit compliance rates for the states for registration years 2021 and 2022 and related compliance percentages for FARs, retreat audits, and registration compliance percentages.

Finance Subcommittee—UCR Finance Subcommittee Chair

Distribution From the UCR Depository for 2023 Registration Year—UCR Depository Manager and UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair and the UCR Depository Manager will provide an update on the timing for a distribution of fees from the UCR Depository to states that have not yet

reached their revenue entitlements for the 2023 registration year.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

Update on Current and Future Training Initiatives—UCR Education and Training Subcommittee Chair

The Education and Training Subcommittee Chair will provide an update on current and planned future training initiatives and the E-Certificate program.

Industry Advisory Subcommittee—UCR Industry Advisory Subcommittee Chair

Update on Current Initiatives—UCR Industry Advisory Subcommittee Chair

The UCR Industry Advisory Subcommittee Chair will provide an update on current and planned initiatives regarding motor carrier industry concerns.

Enforcement Subcommittee—UCR Enforcement Subcommittee Chair

Update on Current Initiatives—The UCR Enforcement Subcommittee Chair will provide an update on current and planned initiatives.

VIII. Contractor Reports—UCR Board Chair

- UCR Executive Director's Report

The UCR Executive Director will provide a report covering recent activity for the UCR Plan.

- DSL Transportation Services, Inc.

DSL Transportation Services, Inc. will report on the latest data from the Focused Anomaly Reviews (FARs) program, discuss motor carrier inspection results, pilot projects and other matters.

- Seikosoft

Seikosoft will provide an update on recent/new activity related to the National Registration System (NRS).

- UCR Administrator Report (Kellen)

The UCR Chief of Staff will provide a management report covering recent activity for the Depository, Operations, and Communications.

IX. Other Business—UCR Board Chair

The UCR Board Chair will call for any other business, old or new, from the floor.

X. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, January 10, 2023, at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2023–00638 Filed 1–10–23; 4:15 pm]

BILLING CODE 4910–YL–P

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