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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1709, 1719, 1734, 1738, 1739, 1770 and 1773

[Docket No. RUS–22–AGENCY–0053]

RIN 0572–AC61

Policy on Audits of RUS Awardees

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule; request for comment.

SUMMARY: The Rural Utilities Service (RUS or Agency), a Rural Development agency of the United States Department of Agriculture (USDA), is issuing a final rule with request for comment. The intent of this rule is to revise its Policy on Audits to change the title, remove an unnecessary report, update terminology, clarify Agency contacts and filing requirements and update or remove any outdated references. This document will also make conforming changes to other regulations. These changes will provide uniformity and consistency for all RUS awardees.

DATES:

Effective date: This final rule is effective May 8, 2023.

Comment date: Comments are due on or before April 7, 2023.

ADDRESSES: You may submit comments, identified by docket number RUS–22–AGENCY–0053 and Regulatory Information Number (RIN) number 0572–AC61 through *https://www.regulations.gov.*

Instructions: All submissions received must include the Agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jurleme Grey, Chief, Technical Accounting Review Branch, External Compliance Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Telephone: (202) 540–9200, Email: *compliance.tarb@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Rural Development is a mission area within the USDA comprising RUS, Rural Housing Service, and Rural Business-Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. The mission is met by providing loans, loan guarantees, grants, and technical assistance through numerous programs aimed at creating and improving housing, business, and infrastructure throughout rural America.

The RUS loan, loan guarantee, and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecommunications and broadband infrastructure, RUS also plays a significant role in improving other measures of quality of life in rural America, including public health and safety, environmental protection and cultural and historic preservation.

An update to this policy occurred on May 7, 2018 (83 FR 19905), to incorporate 2011 revisions to the Generally Accepted Government Auditing Standards issued by the Government Accountability Office, the clarified audit standards issued by the American Institute of Certified Public Accountants in 2011, and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, in 2 CFR part 200, subpart F, Audit Requirements, issued by the Office of Management and Budget on December 26, 2013, and adopted by USDA on December 26, 2014. The update also expanded and clarified its regulations to include grant recipients, amend its peer review requirements, amend its reporting requirements, expand the options for the electronic filing of audits, and clarify several existing audit requirements.

The present rulemaking will update regulations, clarify audit policy, and streamline procedures. The uniformity and consistency for all awardees should benefit both the awardees and Agency. Professional standards and guidance provide a framework for conducting high quality audits. To implement these changes, the Agency will publish this as a final rule with comment.

The Administrative Procedure Act exempts from prior notice rules, any actions, ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' (5 U.S.C. 553(a)(2)).

II. Summary of Changes to the Rule

The changes made to 7 CFR parts 1709, 1719, 1734, 1738, 1739 and 1770 are conforming changes to address the amended heading of part 1773 as addressed in paragraph 1 below and to clarify when entities must follow RUS' own audit regulations or 2 CFR part 200.

The changes made to 7 CFR part 1773 include:

1. The heading to the part was changed from ''Policy on Audits of RUS Borrowers and Grantees'' to ''Policy on Audits of RUS Awardees.'' Using the term ''Awardee'' is more comprehensive as some awardees will receive grants, loans or a combination of both.

2. Section 1773.1(a), (c), and (d) were updated to replace outdated terminology and to make references to specific sections of the regulation.

3. Section 1773.2 was updated as follows and conforming changes made throughout the part as a result of these additions and deletions:

(i) ''AA–PARA,'' Program Accounting and Regulatory Analysis Division, was deleted due to the Agency's restructuring of the division. Throughout the regulation, corresponding changes will be made to replace AA–PARA with RUS. This change will keep the regulation from requiring amendments due to any future Agency restructuring.

(ii) It is anticipated that multiple changes will take place surrounding Agency reporting systems. The generic term ''Agency Designated System'' was added so each program can work with their awardees and instruct them on the correct system to use. The definitions for ''Borrower Collection and Analysis System (BCAS)'' and ''Data Collection System (DCS)'' were removed to

eliminate the need for policy updates as changes to these systems occur.

(iii) The definition of ''Audit'' was updated to remove the reference to loan or grant and have it read ''provisions of contracts or grant agreements'' to streamline terminology.

(iv) The definitions for ''Borrower'' and ''Grantee'' were deleted and replaced with ''Awardee'' to be inclusive of all Agency recipients whether loan, grant or a combination of each. This change will help awardees understand the expenditure threshold for audit requirements could be from any or all Federal funding sources.

(v) Definitions for ''financial statements'' and ''peer review'' were added for clarity.

(vi) The definition for ''regulatory liability'' was updated to add ''prescribed in ASC 980, entitled Regulated Operations'' in place of ''defined by FASB (Financial Accounting Standards Board)'' for more clarity.

(vii) The definition for ''related party'' was updated to show that the FASB and GASB (Governmental Accounting Standards Board) agree on how the term is defined.

(viii) The definition for ''report package'' was updated to remove the requirement for the report on compliance with aspects of contractual agreements and regulatory requirements to be included. The addition of a complete set of financial statements has been added to ensure awardees understand these must be included with audit reports. See paragraph 4(i) below.

(ix) The definition of ''RUS'' was updated to include a website where contact information for the Agency could be obtained. This change will keep the regulation from needing to be updated for any future Agency restructuring.

(x) The definition of ''RUS Bulletin 1773–1'' was removed due to this bulletin being no longer relevant. The bulletin will be officially rescinded.

(xi) The definition of ''RUS security agreement'' was updated to change the term loan ''agreement'' to ''contract.''

(xii) The definition of ''Uniform System of Accounts'' was updated to replace borrowers with awardees and to include references to specific regulatory sections.

4. Section 1773.3 was updated as follows:

(i) Paragraph (a) was updated to provide clarity for those auditees under the Single Audit Act. This section was also updated to reflect that financial statements should be prepared in accordance with Generally Accepted Accounting Principles (GAAP) or if using a special purpose framework that reconciling schedules should be provided. This clarification should assist awardees in providing all necessary information to appropriately analyze financial data.

(ii) Paragraph (b) was updated to replace AA–PARA with RUS.

(ii) The third sentence of paragraph (c) was updated to add ''with grant funding only'' after ''Auditees'' to provide clarity.

(iv) Paragraphs (d) introductory text and (d)(1) and (2) were updated to correspond with the correct section of 2 CFR part 200. Paragraph (d)(3) was updated to reference 2 CFR part 200 and to replace AA–PARA with RUS. Paragraph (d)(3)(i) was updated to reference reporting under 7 CFR part 1773.

(v) Paragraph (e) was updated to change borrower(s) to awardee(s).

5. Section 1773.4 was updated as follows:

(i) Paragraph (a)(3) was updated to clarify the auditee's responsibility in selecting the audit firm.

(ii) Paragraphs (c) introductory text and (c)(1) and (2) were updated to replace AA–PARA with RUS and to reference specific regulatory sections.

(iii) Paragraph (e) was updated to indicate that auditees must obtain debarment certifications in accordance with 2 CFR 180.300 or 2 CFR part 417. Directing the awardee to relevant CFR parts will help clarify the available methods of debarment certification available to the awardee.

(iv) Paragraph (f) was updated to clarify that auditee must obtain a copy of the auditor's most recently accepted peer review report which should be dated within 36 months of the engagement letter. This clarification is in accordance with the current American Institute of Certified Public Accountants (AICPA) guidelines.

(v) Paragraph (g) was updated to clarify that auditees must provide reconciliation schedules if a method other than GAAP is used. The reconciliation schedules are necessary to adequately analyze the financial performance of the awardee and determine the awardee's ability to meet short- and long-term obligations.

(vi) Paragraph (h) was updated to replace the term unqualified with unmodified. The change in terminology is in accordance with the current Generally Accepted Government Auditing Standards (GAGAS) guidelines.

(vii) Paragraphs (i) introductory text and (i)(1), (2), and (3) were updated to clarify that communication and submission requirements are electronic to ensure awardees understands paper mail in any form will not be acceptable. This clarification is to emphasis the requirement for electronic communication from previous revision. Paragraph (i)(3) was also updated to reference § 1773.1(d).

(viii) Paragraph (j) was updated to indicate that written responses are due via email.

6. The introductory text of § 1773.5 and paragraph (c) were updated to provide clarity on auditors being enrolled in and complying with the requirements of an approved peer review program. As part of the update, paragraph (c)(2) was deleted and paragraph (c)(1) was redesignated as paragraph (d).

7. Section 1773.6 was updated as follows:

(i) Paragraphs (a) introductory text and (a)(7) were updated to clarify that the auditor and management should agree on the terms of the engagement and that the terms should be documented in the engagement letter or other suitable agreement. This clarification is in accordance with AICPA and GAGAS requirements. Paragraph (a)(4) was updated to replace AA–PARA with RUS and paragraph (a)(9) was updated to indicate that imaging should be permitted in addition to photocopying.

(ii) Paragraph (b) was updated to indicate that the auditor and auditee are expected to retain the engagement letter and have it available for inspection by the Agency.

8. Section 1773.7 was updated as follows:

(i) Paragraph (a) was updated to indicate that RUS would respond in writing via email.

(ii) Paragraph (b) was updated to remove unnecessary language.

(iii) Paragraph (c) was updated to include the introductory text ''Audit scope limitations are as follows''. Paragraph (c)(1) was updated to reference § 1773.4(h). Paragraphs (c)(1) and (3) were updated to replace AA–PARA with RUS and paragraph (c)(2) was updated to change unqualified to unmodified.

9. Section 1773.8 was updated to make paragraph (a) the introductory text since there was not a paragraph (b) and paragraphs (a)(1) through (3) were redesignated as paragraphs (a) through (c). In addition, changes to the section were made to show that RUS would respond in writing via email and to replace AA–PARA with RUS.

10. Section 1773.9 was updated as follows:

(i) The heading of the section was updated from ''Disclosure of fraud, and

noncompliance with provisions of laws, regulations, contracts, and loan and grant agreements'' to ''Disclosure of fraud, and noncompliance with provisions of law, regulations, contracts, and grant agreements.''

(ii) Paragraphs (a) and (b) were updated to remove the terms ''loan and'' which corresponds to the revised title of the section.

(iii) Paragraph (c) was updated to indicate RUS would reply in writing via email. Paragraph (c)(2) was updated to replace AA–PARA with RUS. Paragraphs (c)(3)(i) and (ii) were updated to the current Office of Inspector General (OIG) offices and corresponding contact information.

11. Section 1773.10 was updated to show that auditors must make documentation available and permit the Agency to photocopy or image all documentation. Adding permission for imaging documentation is imperative with electronic communications between the Agency and both auditee and auditors.

12. Section 1773.20 was updated to remove paragraph (b) on communication with the governance board. Paragraph (b) has been removed because this section is a reiteration of the information in paragraph (a).

13. Section 1773.21 was updated as follows:

(i) Paragraphs (b) and (e) were updated to clarify audit submission requirements regarding format and system.

(ii) Paragraph (c) was updated to replace AA–PARA with RUS.

(ii) Paragraph (d) was updated to clarify what should be included in the reporting package.

The above changes will help ensure audit submissions are unlocked or unencrypted before uploading through the Agency designated system and should improve efficiency of Agency staff and reduce burden on awardees by reducing audit rejections and resubmissions.

14. Section 1773.31 was updated to clarify that auditors should form an opinion on the comparative financial statements and issue a written report that meets AICPA professional auditing standards and GAGAS requirements. The language in this section was restated to adhere more strictly with AICPA professional audit standards and GAGAS requirements.

15. Section 1773.32 was updated as follows:

(i) The heading of the section was updated from ''Report on internal control over financial reporting and on compliance and other matters'' to ''Reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud.'' The report title has been updated to conform with the most current Government Auditing Standards as issued by the Government Accountability Office. In addition, the use of a single report is at the discretion of the auditor. Should the auditor determine individual reports are warranted, separate reports could be issued.

(ii) Paragraph (a) was updated to remove ''and loan'' from two locations in the first sentence as a corresponding change. In addition, the last sentence was updated to include digital as an acceptable signature option.

(iii) In paragraphs (b) and (c), the statement ''the report on internal controls over financial reporting and on compliance and other matters'' was replaced with ''the reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud.'' These are conforming changes to the updated heading of the section.

16. Section 1773.33 was amended by removing all requirements of this section and reserving the section. The Report of Compliance of Contractual Agreements and Regulatory Requirements shall no longer be a requirement as it no longer provides a meaningful benefit to RUS. Conforming changes were made to §§ 1773.2, 1773.31, and 1773.38.

17. Section 1773.34 was updated to clarify that the auditor must prepare a schedule of findings to be included with the reports on internal control; compliance with laws, regulations, contracts and grant agreements; and instances of fraud. This change in report title is in compliance with the current Government Auditing Standards guidance. AA–PARA was replaced with RUS in the last sentence.

18. Section 1773.38 was updated to clarify that audit requirements in 7 CFR part 1773 as a whole versus specific sections should be met annually by the auditor. The elimination of the Report of Compliance of Contractual Agreements and Regulatory Requirements removed the need to emphasize specific audit requirements applicable only to this report.

19. Sections 1773.39, 1773.41, 1773.42, 1773.43 and 1773.44 were amended by removing all requirements of the sections and reserving the sections. These sections provided audit guidance or requirements that were specific to the Report of Compliance of Contractual Agreements and Regulatory Requirements. With the elimination of this report, these sections are no longer valid.

III. Executive Orders and Acts

Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Congressional Review Act

Pursuant to 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).

Executive Order 12372, Intergovernmental Review of Federal Programs

This final rule is excluded from the scope of E.O. 12372, Intergovernmental Consultation, which may require consultation with state and local officials. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034), advising that RUS loans and loan guarantees were not covered by E.O. 12372.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under E.O. 12988, Civil Justice Reform. In accordance with this final rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS loan programs provide borrowers with loans at interest rates and terms that are more favorable than those generally available from the private sector. Borrowers, as a result of obtaining Federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 (''Environmental Policies

and Procedures''). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action'' and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Assistance Listing Number (Formally Known as the Catalog of Federal Domestic Assistance)

The Assistance Listing Numbers assigned to the programs described by this final rule are as follows: 10.751—Rural Energy Savings Program; 10.752—Rural eConnectivity Pilot Program, 10.850—Rural Electrification Loans and Loan Guarantees; 10.851—Rural Telephone Loans and Loan Guarantees; 10.855—Distance Learning and Telemedicine Loans and Grants; 10.858—Denali Commission Grants and Loans; 10.859—Assistance to High Energy Cost Rural Communities; 10.863—Community Connect Grant Program and 10.886 Rural Broadband Access Loans and Loan Guarantees.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this rule are approved by OMB under OMB Control Number 0572–0095. This final rule contains no new reporting or recordkeeping burdens. The 3-year renewal for this package is pending approval by OMB.

Unfunded Mandates

This final rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for state, local, and tribal governments or the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Executive Order 13132—Federalism

The policies contained in this rule do not have any substantial direct effect on 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. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the States is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This E.O. imposes requirements on RUS in the development of regulatory policies that have Tribal implications or preempt Tribal laws. RUS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of E.O. 13175. If Tribal leaders are interested in consulting with RUS on this rule, they are encouraged to contact USDA's Office of Tribal Relations or Rural Development's Native American Coordinator at: *AIAN@usda.gov* to request such a consultation.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act of 2002, Public Law 107–347, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Civil Rights Impact Analysis

Rural Development, a mission area for which RUS is an agency, has reviewed this rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis, to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, sex, gender identity (including gender expression), genetic information, political beliefs, sexual orientation, marital status, familial status, parental status, veteran status, religion, reprisal and/or resulting from all or a part of an individual's income being derived from any public assistance program. After review and analysis of the rule and available data, it has been determined that based on the analysis of the program purpose, application submission and eligibility criteria, issuance of this final rule is not likely to negatively impact very low, low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this rule.

USDA Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/oascr*, from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

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

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

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

List of Subjects

7 CFR Part 1709

Administrative practices and procedure, Electric power, Grant programs—energy, Loan programs—

energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1719

Electric power, Grant programs—energy, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1734

Community development, Grant programs—education, Grant programs—health, Loan programs—education, Loan programs—health, Rural areas.

7 CFR Part 1738

Fees, Loan programs—communications, Rural areas, Telecommunications, Telephone.

7 CFR Part 1739

Grant programs—communications, Rural areas, Telecommunications, Telephone.

7 CFR Part 1770

Accounting, Loan programs—communications, Report and recordkeeping requirements, Rural areas, Telephone, Uniform System of Accounts.

7 CFR Part 1773

Accounting, Auditing, Electric power, Grant programs, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set forth in the preamble, RUS amends 7 CFR parts 1709, 1719, 1734, 1738, 1739, 1770, and 1773 as follows:

PART 1709—ASSISTANCE TO HIGH ENERGY COST COMMUNITIES

■ 1. The authority citation for part 1709 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 901 *et seq.*

Subpart A—General Requirements

■ 2. Amend § 1709.21 by revising paragraphs (a) and (b) to read as follows:

§ 1709.21 Audit requirements.

* * * * *

(a) If the recipient is a for-profit entity, an electric or telecommunications cooperative, or any other entity not covered by the definition of ''non-Federal entity'' in 2 CFR 200.1, the recipient shall provide an independent audit report in accordance with 7 CFR part 1773 and the grant agreement.

(b) If the recipient is a non-Federal entity, as defined in 2 CFR 200.1, the recipient shall provide an audit in accordance with subpart F of 2 CFR part 200.

PART 1719—RURAL ENERGY SAVINGS PROGRAM

■ 3. The authority citation for part 1719 continues to read as follows:

Authority: 7 U.S.C. 8107a (Section 6407).

Subpart B—Application, Submission and Administration of RESP Loans

■ 4. Amend § 1719.13 by revising paragraphs (b) introductory text and (b)(1) and (2) to read as follows:

§ 1719.13 Auditing and accounting requirements.

* * * * *

(b) *Auditing requirements.* RESP borrowers will be required to prepare audits as follows:

(1) If the borrower is a for-profit entity, an electric or telecommunications cooperative, or any other entity not covered by the definition of ''non-Federal entity'' in 2 CFR 200.1, the borrower shall provide an independent audit report in accordance with 7 CFR part 1773 and the award agreement. The certified public accountant (CPA) is selected by the awardee and must be approved by RUS as set forth in 7 CFR 1773.5.

(2) If the borrower is a non-Federal entity, as defined in 2 CFR 200.1, the borrower shall provide an audit in accordance with subpart F of 2 CFR part 200.

* * * * *

PART 1734—DISTANCE LEARNING AND TELEMEDICINE LOAN AND GRANT PROGRAMS

■ 5. The authority citation for part 1734 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*

Subpart A—Distance Learning and Telemedicine Loan and Grant Program—General

■ 6. Amend § 1734.8 by revising paragraphs (a) through (c) to read as follows:

§ 1734.8 Audit requirements.

* * * * *

(a) If the awardee is a for-profit entity, an electric or telecommunications cooperative, or any other entity not covered by the definition of ''non-Federal entity'' in 2 CFR 200.1, the awardee shall provide an independent audit report in accordance with 7 CFR part 1773 and the grant agreement.

(b) If the awardee is a non-Federal entity, as defined in 2 CFR 200.1, the awardee shall provide an audit in accordance with subpart F of 2 CFR part 200.

(c) Grant awardees shall comply with 2 CFR part 200, and rules on the disposition of grant assets in part 200 shall be applied regardless of the type of legal organization of the grantee.

PART 1738—RURAL BROADBAND LOANS, LOAN/GRANT COMBINATIONS, AND LOAN GUARANTEES

■ 7. The authority citation for part 1738 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

Subpart F—Closing, Servicing, and Reporting for Loan and Loan/Grant Combination Awards

■ 8. Amend § 1738.254 by revising paragraphs (a) and (b) to read as follows:

§ 1738.254 Accounting, reporting, and monitoring requirements.

(a) Awardees must adopt a system of accounts for maintaining financial records acceptable to the Agency, as described in 7 CFR part 1770, subpart B.

(b) Awardees will be required to prepare audits as follows:

(1) If the awardee is a for-profit entity, an electric or telecommunications cooperative, or any other entity not covered by the definition of ''non-Federal entity'' in 2 CFR 200.1, the awardee shall provide an independent audit report in accordance with 7 CFR part 1773 and the award agreement. The certified public accountant (CPA) conducting the annual audit is selected by the awardee and must be approved by RUS as set forth in 7 CFR 1773.5.

(2) If the awardee is a non-Federal entity, as defined in 2 CFR 200.1, the awardee shall provide an audit in accordance with subpart F of 2 CFR part 200.

* * * * *

PART 1739—BROADBAND GRANT PROGRAM

■ 9. The authority citation for part 1739 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

Subpart A—Community Connect Grant Program

■ 10. Amend § 1739.20 by revising paragraphs (a) and (b) to read as follows:

§ 1739.20 Audit requirements.

* * * * *

(a) If the recipient is a for-profit entity, an electric or telecommunications cooperative, or any other entity not covered by the definition of ''non-Federal entity'' in 2 CFR 200.1, the recipient shall provide an independent audit report in accordance with 7 CFR part 1773 and the grant agreement. Please note that the first audit submitted to the Agency and all subsequent audits must be comparative audits as described in 7 CFR part 1773.

(b) If the recipient is a non-Federal entity, as defined in 2 CFR 200.1, the recipient shall provide an audit in accordance with subpart F of 2 CFR part 200.

PART 1770—ACCOUNTING REQUIREMENTS FOR RUS TELECOMMUNICATIONS BORROWERS

■ 11. The authority citation for part 1770 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.;* 7 U.S.C. 1921 *et seq.;* Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

Subpart B—Uniform System of Accounts

■ 12. Amend § 1770.13 by revising paragraph (a) to read as follows:

§ 1770.13 Accounting requirements.

(a) Each borrower shall maintain its books of accounts on the accrual basis of accounting. All transactions shall be recorded in the period in which they occur and reconciled monthly. The books of accounts shall be closed at the end of each fiscal year and financial statements shall be prepared for the period and audited in accordance with the provisions of 7 CFR part 1773.

* * * * *

PART 1773—POLICY ON AUDITS OF RUS AWARDEES

■ 13. The authority citation for part 1773 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 7 U.S.C. 1921 *et seq.,* 7 U.S.C. 6941 *et seq.*

■ 14. The heading for part 1773 is revised to read as set forth above.

Subpart A—General Provisions

■ 15. Amend § 1773.1 by revising paragraphs (a), (c), and (d) to read as follows:

§ 1773.1 General.

(a) This part implements the standards for audits required by the loan contracts and grant agreements of Rural Utilities Service (RUS) electric and telecommunications awardees. The provisions in this part require auditees to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of its financial condition, operations, and cash flows, in form and substance satisfactory to RUS, audited by an independent auditor that meets the requirements of § 1773.5, and performed in accordance with auditing standards issued by generally accepted Government auditing standards (GAGAS) and the requirements of § 1773.7.

* * * * *

(c) This part further sets forth the criteria that an auditee should use to select an auditor and certain audit procedures and audit documentation that must be performed and prepared by the auditor.

(d) Failure of an auditee to provide an audit in compliance with this part is a serious violation of the RUS security agreement. RUS relies on audited financial statements in order to assess and monitor the financial condition of its awardees and to fulfill its fiduciary responsibilities.

* * * * *

■ 16. Amend § 1773.2 by:

■ a. Removing the definition of ''AA–PARA'';

■ b. Adding, in alphabetical order, the definition of ''Agency designated system'';

■ c. Revising the definitions of ''Audit'' and Auditee'';

■ d. Adding, in alphabetical order, the definition of ''Awardee'';

■ e. Removing the definitions of ''BCAS'', ''Borrower'', and ''DCS'';

■ f. Adding, in alphabetical order, the definition of ''Financial statements'';

■ g. Removing the definition of ''Grantee'';

■ h. Adding, in alphabetical order, the definition of ''Peer review'';

■ i. Revising the definitions of ''Regulatory liability'', ''Related party'', ''Reporting package'', and ''RUS'';

■ j. Removing the definition of ''RUS Bulletin 1773–1''; and

■ k. Revising the definitions of ''RUS security agreement'' and ''Uniform System of Accounts''.

The additions and revisions read as follows:

§ 1773.2 Definitions.

* * * * *

Agency designated system means the electronic system designated by the Agency for awardees to upload audit documents.

* * * * *

Audit means an examination of financial statements by an independent auditor for the purpose of expressing an opinion on the fairness with which those statements present financial position, results of operations, and changes in cash flows in accordance with U.S. generally accepted accounting principles (GAAP) and for determining whether the auditee has complied with applicable laws, regulations, and provisions of contracts or grant agreements that could have a material effect on the financial statements.

* * * * *

Auditee means a RUS awardee that is required to submit an annual audit as a condition of the award.

* * * * *

Awardee means an entity that has an outstanding RUS or Federal Financing Bank (FFB) loan or loan guarantee and/or a continuing responsibility under a grant agreement with RUS.

* * * * *

Financial statements mean the comparative balance sheets, statements of revenue and patronage capital (or statement of operations customary to the type of entity reporting) and statements of cash flows.

* * * * *

Peer review means an approved study, appraisal, or review of one or more aspects of the accounting and auditing practice, not subject to Public Company Accounting Oversight Board permanent inspection, performed once every three years by a CPA firm that is not affiliated with the auditor.

* * * * *

Regulatory liability means a liability imposed on a regulated enterprise when there is an enforceable present obligation to deduct an amount in determining the regulated rate to be charged to customers in future periods.

Related party has the same meaning as defined by FASB and GASB.

Reporting package means:

(1) The auditor's report on the financial statements;

(2) The reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud;

(3) A complete set of financial statements;

(4) The schedule of findings and recommendations; and

(5) All supplemental schedules and information required by this part.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture. Contact information for RUS can be found at RUS Program Accounting Services Division Rural Development (*usda.gov*).

RUS security agreement means a loan contract, grant agreement, mortgage,

security agreement, or other form of agreement that governs the terms and conditions of, or provides security for, loan and/or grant funds provided by RUS to the auditee.

* * * * *

Uniform System of Accounts means, for telecommunications awardees, as contained in 7 CFR part 1770, subpart B, and for electric awardees, as contained in 7 CFR part 1767, subpart B.

Subpart B—RUS Audit Requirements

■ 17. Revise § 1773.3 to read as follows:

§ 1773.3 Annual audit.

(a) Each auditee must have its financial statements audited annually by an auditor selected by the auditee and approved by RUS as set forth in § 1773.4. All auditees, except those subject to the Single Audit Act, must submit audited financial statements on a comparative basis covering at least two consecutive 12-month periods, unless the entity has not been in existence for two consecutive 12-month audit periods. Financial statements should be prepared in accordance with GAAP, or if prepared using a special purpose framework, reconciling schedules should be included. Audits of consolidated financial statements of the parent are not an acceptable replacement for an audit of the auditee.

(b) Each auditee must establish an annual audit date within 12 months of the date of the first advance and must prepare annual financial statements for the audit date established. Each auditee must notify RUS of the audit date at least 90 days prior to the selected audit date.

(c) Auditees must furnish a reporting package to RUS within 120 days of the audit date. (See § 1773.21) Until all loans made or guaranteed by RUS are repaid and unliquidated obligations rescinded, auditees must continue to provide annual audited financial statements. Auditees with grant funding only must furnish annual audited financial statements in the year of the first advance and until all funds have been advanced or rescinded, and all financial compliance requirements have been fully satisfied.

(d) An auditee that is identified as a non-Federal entity as defined in 2 CFR 200.1, which means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient, must meet the audit requirements outlined in 2 CFR 200.501 and 200.502 and the Single Audit Act, and not this part.

(1) For auditees expending less than the threshold for expenditure in Federal awards during the year, RUS reserves its right under 2 CFR 200.503 to arrange for an audit performed in accordance with this part.

(2) Within 30 days after the audit date, auditees subject to 2 CFR part 200, subpart F, must notify RUS, in writing via email, of the total Federal awards expended during the year and must state whether the audit will be performed in accordance with the Single Audit Act or this part.

(e) Subpart F of 2 CFR part 200 does not apply to audits of RUS electric and telecommunications cooperatives and for-profit telecommunications awardees unless the awardee has contractually agreed with another Federal agency (*e.g.,* Federal Emergency Management Agency) to provide a financial audit performed in accordance with 2 CFR part 200, subpart F. In no circumstance will an auditee be required to submit separate audits performed in accordance with this part and 2 CFR part 200, subpart F.

■ 18. Amend § 1773.4 by revising paragraphs (a)(3), (c), (e), (f), (g) introductory text, (h), (i), and (j) introductory text to read as follows:

§ 1773.4 Auditee's responsibilities.

(a) * * *

(3) The auditor's ability to complete the audit and submit the reporting package to the auditee within 90 days of the audit date.

* * * * *

(c) *Notification of selection.* When the initial selection or subsequent change of an auditor has been made, the auditee must notify RUS, in writing via email, at least 90 days prior to the audit date. Changes in the name of an auditor are considered to be a change in the auditor.

(1) Within 30 days of the date of receipt of such notice, RUS or its designated representative will notify the auditee, in writing via email, if the selection or change in auditor is not satisfactory as identified in § 1773.5.

(2) Notification that the same auditor has been selected for succeeding audits of the auditee's financial statements is not required; however, the procedures outlined in this part must be followed for each new auditor selected, even though such auditor may previously have been approved by RUS to audit records of other RUS auditees.

* * * * *

(e) *Debarment certification.* The auditee must obtain, from the selected auditor, a lower tier covered transaction certification or other method in accordance with 2 CFR 180.300 or 2 CFR part 417, as required by Executive Orders 12549 and 12689 and any rules or regulations in this chapter issued thereunder.

(f) *Peer review report.* The auditee must obtain, from the selected auditor, a copy of the auditor's most recently accepted peer review report, which should be dated within 36 months of the engagement letter.

(g) *Preparation of schedules.* The auditee must prepare any schedules that are required by the auditor to perform the audit, including a complete set of financial statements, a schedule of deferred debits and deferred credits and a detailed schedule of investments in subsidiary and affiliated companies accounted for on the cost, equity, or consolidated basis. The detailed schedule of investments can be included in the notes to the financial statements or as a separate schedule as long as all information required is adequately disclosed. If the auditee uses a method other than GAAP, reconciliation schedules should be included with the reporting package.

* * * * *

(h) *Scope limitations.* The auditee will not limit the scope of the audit to the extent that the auditor is unable to provide an unmodified opinion that the financial statements are presented fairly in conformity with GAAP due to the scope limitation.

(i) *Submission of reporting package.* The auditee must submit to RUS, via the Agency designated system, the required reporting package as set forth in § 1773.21.

(1) A reporting package that fails to meet the requirements detailed in this part will be returned to the auditee via email with a written explanation of noncompliance.

(2) The auditee must, within 30 days of the date of the email detailing the noncompliance, submit a corrected reporting package to RUS via the Agency designated system.

(3) If a corrected reporting package is not received within 30 days of the date of the email detailing the noncompliance, RUS will take appropriate action, depending on the severity of the noncompliance. Per § 1773.1(d), failure to provide an audit in compliance with this part is a serious violation of the RUS security agreement. RUS relies on audited financial statements to assess and monitor the financial condition of its awardees and to fulfill its fiduciary responsibilities.

(j) *Submission of a plan of corrective action.* If the auditor's report contains

findings and recommendations but does not include the auditee's response, the auditee must submit written responses via email to RUS within 180 days of the audit date. The written responses must address:

* * * * *

■ 19. Amend § 1773.5 by revising the introductory text and paragraph (c) and adding paragraph (d) to read as follows:

§ 1773.5 Qualifications of the auditor.

Auditors must meet the qualifications criteria of this section and enter into an audit engagement with the auditee that complies with § 1773.6 to be considered satisfactory to RUS.

* * * * *

(c) *Peer review requirement.* Auditors must be enrolled in and comply with the requirements of an approved peer review program and must have undergone a satisfactory peer review of their accounting and audit practice. The peer review must be in effect at the date of the audit report opinion.

(d) *Peer review reports.* RUS or its designated representative reserves the right to request peer review reports from selected auditors, including evidence indicating actions taken to correct deficiencies identified in the peer review report, if applicable.

■ 20. Amend § 1773.6 by revising paragraphs (a) introductory text, (a)(4), (7), and (9), and (b) to read as follows:

§ 1773.6 Auditor communication.

(a) Under GAGAS and AICPA professional auditing standards, the auditor should agree upon the terms of the engagement with management or those charged with governance, as appropriate. The agreed-upon terms of the engagement should be documented in an audit engagement letter or other suitable form of written agreement. RUS requires the auditor's communication to take the form of an audit engagement letter prepared by the auditor and that it be formally accepted by the auditee's governance board or an audit committee representing the governance board. In addition to the requirements of the AICPA's professional auditing standards and GAGAS, the engagement letter must also include the following:

* * * * *

(4) That the auditor acknowledges that it is required under § 1773.7 to contact RUS if the auditor is unable to resolve scope limitations imposed by the auditee, or if such limitations in scope violate this part. Acceptance of the engagement letter by the auditee is required, thus granting the auditor permission to directly notify RUS as needed;

* * * * *

(7) That the auditor will perform the audit and will issue the required reports and the auditee will prepare and submit the reporting package in accordance with the requirements of this part;

* * * * *

(9) That the auditor will make all audit documentation available to RUS or its representatives (including but not limited to OIG and GAO), upon request, and will permit the photocopying or imaging of all such audit documentation.

(b) A copy of the audit engagement letter must be retained by both the auditee and auditor. The engagement letter must be available at the auditee's office for inspection by RUS personnel or its designated representatives.

■ 21. Revise § 1773.7 to read as follows:

§ 1773.7 Audit standards.

(a) The audit of the financial statements must be performed in accordance with GAGAS and this part in effect at the audit date unless the auditee is directed otherwise, in writing, via email by RUS.

(b) The audit of the financial statements must include such tests of the accounting records and such other auditing procedures that are sufficient to enable the auditor to express an opinion on the financial statements.

(c) Audit scope limitations are as follows:

(1) As noted under § 1773.4(h), the auditee will not limit the scope of the audit to the extent that the auditor is unable to meet RUS audit requirements without prior written approval of RUS.

(2) If the auditor determines during the audit that an unmodified opinion cannot be issued due to a scope limitation imposed by the auditee, the auditor should use professional judgment to determine what levels of the auditee's management and/or those charged with governance should be informed.

(3) After informing the auditee's management and/or those charged with governance, if the scope limitation is not adequately resolved, the auditor should immediately contact RUS.

■ 22. Revise § 1773.8 to read as follows:

§ 1773.8 Audit date.

The annual audit must be performed as of the end of the same calendar month each year unless prior approval to change the audit date is obtained, in writing via email, from RUS or its designated representative.

(a) An auditee may request a change in the audit date by writing via email to RUS at least 60 days prior to the currently approved audit date, providing justification for the change.

(b) The time period between the prior audit date and the newly requested audit date must be no longer than twenty-three months.

(c) Comparative financial statements must be prepared and audited for the 12 months ending as of the new audit date and for the 12 months immediately preceding that period.

■ 23. Revise § 1773.9 to read as follows:

§ 1773.9 Disclosure of fraud, and noncompliance with provisions of law, regulations, contracts, and grant agreements.

(a) In accordance with GAGAS, the auditor is responsible for planning and performing the audit to provide reasonable assurance about whether the financial statements are free of material misstatement due to error or fraud. The auditor must also plan the audit to provide reasonable assurance of detecting material misstatements resulting from violations of provisions of laws, regulations, contracts, or grant agreements that could have a direct and material effect on the financial statements.

(b) If specific information comes to the auditor's attention that provides evidence concerning the existence of possible violations of provisions of laws, regulations, contracts, or grant agreements that could have a material indirect effect on the financial statements, the auditor should apply audit procedures specifically directed to ascertaining whether a violation of provisions of laws, regulations, contracts, or grant agreements has occurred.

(c) Pursuant to the terms of its audit engagement letter with the auditee, the auditor must immediately report, in writing via email, all instances of fraud, illegal acts, and all indications or instances of noncompliance with laws, whether material or not, to:

(1) The president of the auditee's governance board;

(2) RUS; and

(3) OIG, as follows:

(i) For all audits performed in accordance with § 1773.3(d) (audits conducted in accordance with 2 CFR part 200), report to the USDA–OIG–Audit, National Single Audit Coordinator for USDA, 1400 Independence Ave. SW, Ste. 419, Washington, DC 20250, email: *OIG-USDAsingleaudit@oig.usda.gov,* or online at: *http://usdaoig.oversight.gov.*

(ii) For all other audits conducted in accordance with § 1773.3 report to the USDA Office of Inspector General

online at: *https://usdaoig.overight.gov.* If you need to provide any documents concerning your complaint, please fax to (202) 690–2474 or mail to USDA, OIG Hotline, P.O. Box 23399, Washington, DC 20026–3399, or alternately by telephone (800) 424–9121. Please note on your documents that you submitted your complaint online or by telephone.

■ 24. Revise § 1773.10 to read as follows:

§ 1773.10 Access to audit documentation.

Pursuant to the terms of this part and the audit engagement letter, the auditor must make all audit documentation available to RUS, or its designated representative, upon request and must permit RUS, or its designated representative, to photocopy or image all audit documentation.

Subpart C—RUS Requirements for the Submission and Review of the Reporting Package

§ 1773.20 [Amended]

■ 25. Amend § 1773.20 by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

■ 26. Amend § 1773.21 by revising paragraphs (b) through (e) to read as follows:

§ 1773.21 Auditee's review and submission of the reporting package.

* * * * *

(b) The auditee must furnish RUS with an electronic copy of the reporting package, as described in paragraph (e) of this section, within 120 days of the audit date as provided for in § 1773.3.

(c) The auditee must furnish RUS with a copy of its plan for corrective action, if any, within 180 days of the audit date.

(d) The auditee must include in the reporting package comparative balance sheets, statements of revenue and patronage capital (or statement of operations customary to the type of entity reporting) and statements of cash flows, a copy of each defined report or schedule, and a summary of recommendations or similar communications, if any, received from the auditor as a result of the audit.

(e) All required submissions to RUS described in paragraphs (b) through (d) of this section should be furnished electronically. The electronic copy must be provided in an unlocked or unencrypted Portable Document Format (PDF). All RUS electric and telecommunications auditees shall upload the reporting package to the Agency designated system.

Subpart D—RUS Reporting Requirements

■ 27. Revise § 1773.31 to read as follows:

§ 1773.31 Auditor's report on the financial statements.

The auditor should form an opinion on whether the comparative financial statements as a whole are presented fairly, in all material respects, in accordance with GAAP, and issue a written report that meets AICPA professional auditing standards and GAGAS requirements. The report must include the manual, printed, or digital signature of the audit firm.

■ 28. Amend § 1773.32 by revising the section heading and paragraphs (a) introductory text, (b), and (c) to read as follows:

§ 1773.32 Reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud.

(a) As required by GAGAS, the auditor must prepare a written report describing the scope of the auditor's testing of internal control over financial reporting and of compliance with provisions of laws, regulations, contracts, and grant agreements, and that the tests provided sufficient, appropriate evidence to support opinions on the effectiveness of internal control and on compliance with provisions of laws, regulations, contracts, and grant agreements. This report must include the manual, printed or digital signature of the audit firm and must include the following items as appropriate:

* * * * *

(b) When the auditor detects instances of noncompliance or abuse that have an effect on the financial statements that are less than material but warrant the attention of those charged with governance, they should communicate those findings in writing to those charged with governance in a separate communication. If the auditor has issued a separate communication detailing immaterial instances of noncompliance or abuse, the reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud must be modified to include a statement such as:

''We noted certain immaterial instances of noncompliance [and/or abuse], which we have reported to the management of (auditee's name) in a separate letter dated (month, day, 20XX).''

(c) If the auditor has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, the reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud must be modified to include a statement such as:

''However, we noted other matters involving the internal control over financial reporting that we have reported to the management of (auditee's name) in a separate letter dated (month, day, 20XX).''

* * * * *

§ 1773.33 [Removed and Reserved]

■ 29. Remove and reserve § 1773.33.

■ 30. Revise § 1773.34 to read as follows:

§ 1773.34 Schedule of findings and recommendations.

The auditor must prepare a schedule of findings and recommendations to be included with the reports on internal control; compliance with laws, regulations, contracts, and grant agreements; and instances of fraud. The schedule of findings and recommendations shall be developed and presented utilizing the elements of a finding discussed in GAGAS and shall include recommendations for remediation. If the schedule does not include responses from management, as well as any planned corrective actions, those items must be submitted directly to RUS by management in accordance with § 1773.4(j).

Subpart E—RUS Audit Requirements and Documentation

■ 31. Revise § 1773.38 to read as follows:

§ 1773.38 Scope of engagement.

The audit requirements set forth in this part should be met annually by the auditor during the audit of the RUS auditee's financial statements. The auditor must exercise professional judgment in determining whether any auditing procedures in addition to those mandated by GAGAS or this part should be performed on the auditee's financial records in order to afford a reasonable basis for rendering the auditor's opinion on the financial statements and the reports on internal control; compliance with provisions of laws, regulations, contracts, and grant agreements; and instances of fraud; and schedule of findings and recommendations.

§§ 1773.39, 1773.41, 1773.42, 1773.43, and 1773.44 [Removed and Reserved]

■ 32. Remove and reserve §§ 1773.39, 1773.41, 1773.42, 1773.43, and 1773.44.

Andrew Berke,

Administrator, Rural Utilities Service, Rural Development.

[FR Doc. 2023–01496 Filed 2–3–23; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0155; Project Identifier MCAI–2022–01634–T; Amendment 39–22322; AD 2023–02–15]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 airplanes. This AD was prompted by reports of main landing gear (MLG) bogie pivot pins with damaged high velocity oxygen fuel (HVOF) coating, which resulted from heating caused by friction between the MLG bogie pivot pin and the bushes. This AD requires repetitively greasing the MLG bogie pivot pins, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective February 21, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 21, 2023.

The FAA must receive comments on this AD by March 23, 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–2023–0155; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- 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–2023–0155.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0155; Project Identifier MCAI–2022–01634–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

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

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0263, dated December 21, 2022 (EASA AD 2022–0263) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 airplanes. The MCAI states that HVOF coating damage was observed on bare material of the MLG bogie pivot pins during a maintenance inspection. The root cause investigation is still ongoing. However, investigation shows that HVOF coating damage is the result of heating caused by friction between the MLG bogie pivot pin and the bushes. The FAA is issuing this AD to address MLG bogie pivot pins with damaged HVOF coating, which could lead to MLG collapse, possibly resulting in damage to the airplane and injury to occupants.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–0155.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0263 specifies procedures for repetitively greasing the left- and right-hand MLG bogie pivot pins. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2022–0263 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2022–0263 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2022–0263 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0263 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 2022–0263. Service information required by EASA AD 2022–0263 for compliance will be available at regulations.gov under Docket No. FAA–2023–0155 after this AD is published.

Interim Action

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

FAA's Justification and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because the MLG bogie pivot pin is a principal structural element (PSE) as specified in the Airworthiness Limitations section, and it ensures the connection between the landing gear slider and the bogie beam. Main landing gear bogie pivot pins with damaged HVOF coating could cause the MLG to collapse, possibly resulting in damage to the airplane and injury to occupants. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

The FAA estimates that this AD affects 31 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$10	$95	$2,945

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

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:

2023–02–15 Airbus SAS Airplanes: Amendment 39–22322; Docket No. FAA–2023–0155; Project Identifier MCAI–2022–01634–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 21, 2023.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by reports of main landing gear (MLG) bogie pivot pins with damaged high velocity oxygen fuel (HVOF) coating, which resulted from heating caused by friction between the MLG bogie pivot pin and the bushes. The FAA is issuing this AD to address MLG bogie pivot pins with damaged HVOF coating, which could lead to MLG collapse, possibly resulting in damage to the airplane and injury to occupants.

(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 2022–0263, dated December 21, 2022 (EASA AD 2022–0263).

(h) Exceptions to EASA AD 2022–0263

(1) Where EASA AD 2022–0263 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0263.

(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 2022–0263 that 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 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 2022–0263, dated December 21, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0263, 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 January 27, 2023.

Christina Underwood,

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

[FR Doc. 2023–02473 Filed 2–1–23; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1151; Project Identifier MCAI–2020–01603–T; Amendment 39–22303; AD 2023–01–09]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited Model DHC–8–400 series airplanes. This AD was prompted by a report that electrical bonding jumpers had been installed on fuel scavenge lines even after the removal was required by previous AD rulemaking and that electrical bonding jumpers may have been installed in production or in service at other locations. This AD requires an inspection for electrical bonding jumpers and brackets on the fuel scavenge and vent lines at specific wing locations, and if installed, removal or modification of those jumpers and brackets. This AD also requires a records check to determine if certain maintenance tasks were performed and removal, modification, or rework if those tasks were performed. This AD also prohibits the use of earlier versions of certain maintenance tasks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 13, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 13, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket

No. FAA–2022–1151; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855–310–1013, Direct: 647–277–5820; email *thd@dehavilland.com*; website *dehavilland.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2022–1151.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes. The NPRM published in the **Federal Register** on September 9, 2022 (87 FR 55322). The NPRM was prompted by AD CF–2020–01, dated January 14, 2020, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states it was reported that electrical bonding jumpers had been installed on fuel scavenge lines even after the removal was required by Transport Canada AD CF–2010–31, dated September 3, 2010 (which corresponds to FAA AD 2011–13–06, Amendment 39–16729 (76 FR 37258, June 27, 2011) (AD 2011–13–06)). Subsequent investigation showed that electrical bonding jumpers may have been installed in production or in service at other locations on the fuel scavenge and vent lines. If installed, these electrical bonding jumpers could affect the integrity of the fuel scavenge and vent lines' electrical bonding paths, which may lead to lightning strike induced fuel tank ignition.

In the NPRM, the FAA proposed to require an inspection for electrical bonding jumpers and brackets on the fuel scavenge and vent lines at specific wing locations, and if installed, removal or modification of those jumpers and brackets. The FAA also proposed to require a records check to determine if certain maintenance tasks were performed and removal, modification, or rework if those tasks were performed. The FAA also proposed to prohibit the use of earlier versions of certain maintenance tasks. The FAA is issuing this AD to address altered electrical bonding paths, which may lead to lightning strike-induced ignition of the fuel tank.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1151.

Discussion of Final Airworthiness Directive

Comments

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

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

Request To Remove Job Access and Close-up Requirements

Horizon Air requested revising paragraphs (h)(1) and (2) of the proposed AD to remove the Job Set-up and Close-Out sections of the Accomplishment Instructions of Bombardier Service Bulletins 84–28–29 and 84–28–30, both dated October 17, 2018, from the requirements of the proposed AD. Horizon Air asserted that incorporating the Job Set-up and Close Out sections of the Accomplishment Instructions do not address the unsafe condition and also restrict an operator's ability to perform other maintenance in conjunction with the incorporation of the service bulletins.

In this case, the FAA agrees with the commenter's request to exclude the ''Job Set-up'' and ''Close Out'' sections of Bombardier Service Bulletin 84–28–29; and 84–28–30; both dated October 17, 2018. The FAA has revised paragraphs (h)(1) and (2) of this AD to require accomplishment of paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletins 84–28–29; or 84–28–30; both dated October 17, 2018; as applicable.

Request To Correct Typographical Errors

Horizon Air requested correction of some typographical errors it found in paragraphs (h)(1) and (2) of the proposed AD. Horizon Air noted that the dates provided for the referenced service bulletins was published in the NPRM as October 1 instead of October 17 in two places. Horizon Air also pointed out that in paragraph (h)(2) of the proposed AD, the first reference to a service bulletin seems to be in error and should be 84–28–30 instead of 84–28–29.

The FAA acknowledges the typographical errors and agrees to the request. Paragraphs (h)(1) and (2) of this AD have been revised as requested.

Conclusion

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

Related Service Information Under 1 CFR Part 51

De Havilland Aircraft of Canada Limited has issued Bombardier Service Bulletins 84–28–29; and 84–28–30; both dated October 17, 2018; which describe procedures for an inspection of certain wing stations in the left and right wings for the presence of brackets and electrical bonding jumpers on the fuel scavenge and vent lines, and if installed, removal or modification of those electrical bonding jumpers and brackets. These documents are distinct because they apply to different airplane configurations.

De Havilland Aircraft of Canada Limited has also issued the following Bombardier service information, which describes fuel system limitations, critical design configuration control limitations (CDCCLs), or airworthiness limitations for fuel tank systems. These documents are distinct because they

apply to different airplane configurations.

- (Bombardier) Q400 Dash 8 Aircraft Maintenance Manual (AMM) Temporary Revision (TR) 28–170, dated November 2, 2018.
- (Bombardier) Q400 Dash 8 AMM TR 28–171, dated November 2, 2018.
- (Bombardier) Q400 Dash 8 AMM TR 28–166, dated November 2, 2018.
- (Bombardier) Q400 Dash 8 AMM TR 28–167, dated November 2, 2018.
- (Bombardier) Q400 Dash 8 AMM TR 28–168, dated November 2, 2018.
- (Bombardier) Q400 Dash 8 AMM TR 28–169 dated November 2, 2018.
- (Bombardier) Q400 Dash 8 AMM TR 28–163, dated August 1, 2018.
- (Bombardier) Q400 Dash 8 Maintenance Task Card Manual (MTCM) Maintenance Task Card 000–28–520–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (LH), Revision 43, Amendment 0001, dated August 1, 2018.
- (Bombardier) Q400 Dash 8 MTCM Maintenance Task Card 000–28–620–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (RH), Revision 43, Amendment 0001, dated August 1, 2018.

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

Costs of Compliance

The FAA estimates that this AD will affect 53 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 94 work-hours × $85 per hour = Up to $7,990.	$0	Up to $7,990	Up to $423,470.

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 40 work-hours × $85 per hour = Up to $3,400	$100	Up to $3,500.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–01–09 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22303; Docket No. FAA–2022–1151; Project Identifier MCAI–2020–01603–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 13, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited (Type Certificate previously held by Bombardier, Inc.) Model DHC–8–400, –401, and –402 airplanes, certificated in any category, having serial numbers 4001, 4003, and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel System.

(e) Unsafe Condition

This AD was prompted by a report that electrical bonding jumpers had been installed on fuel scavenge lines even after the removal was required by previous AD rulemaking and electrical bonding jumpers may have been installed in production or in service at other locations. The FAA is issuing this AD to address altered electrical bonding paths, which may lead to lightning strike-induced ignition of the fuel tank.

(f) Compliance

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

(g) Definition

For the purposes of this AD, ''prohibited tasks'' are identified as any task identified in paragraph (j) of this AD and any procedure

or task that specifies fuel tank access using non-manufacturer-approved procedures.

(h) Inspection and Modification

(1) For airplanes having serial numbers 4001, and 4003 through 4118 inclusive: Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, inspect wing stations ±79.7, ±136.3, ±173.2, and ±299.019 in the left and right wings for the presence of brackets and electrical bonding jumpers installed on the fuel scavenge and vent lines, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–29, dated October 17, 2018. If installed, remove or modify the electrical bonding jumpers and brackets as applicable, before further flight, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–29, dated October 17, 2018.

(2) For airplanes having serial numbers 4119 through 4597 inclusive: Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, inspect wing stations ±79.7, ±136.3, and ±173.2 in the left and right wings for the presence of brackets and electrical bonding jumpers on the fuel scavenge and vent lines, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–30, dated October 17, 2018. If installed, remove or modify the electrical bonding jumpers and brackets as applicable, before further flight, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–30, dated October 17, 2018.

(i) Verification and Rework for the Existing Maintenance Program

(1) For airplanes having serial numbers 4001, and 4003 through 4597 inclusive, on which the actions required by paragraph (h)(1) or (2) of this AD have been done before the effective date of this AD: Within 60 days after the effective date of this AD, review the airplane maintenance records to confirm if any of the prohibited tasks (defined in paragraph (g) of this AD) were accomplished during or after compliance with paragraph (h)(1) or (2) of this AD. If any of the prohibited tasks were accomplished during or after compliance with paragraph (h)(1) or (2) of this AD, or if it cannot be conclusively confirmed that they were not accomplished during or after compliance with paragraph (h)(1) or (2) of this AD: Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, do the actions required by paragraph (h)(1) or (2) of this AD, as applicable.

(2) For airplanes having serial numbers 4598 and subsequent, with an airplane date of manufacture, as identified on the identification plate of the airplane, dated before the effective date of this AD: Within 60 days after the effective date of this AD, review the airplane maintenance records to confirm if any of the prohibited tasks (defined in paragraph (g) of this AD) were accomplished on or after the airplane date of manufacture. If any of the prohibited tasks were accomplished on or after the airplane date of manufacture, or if it cannot be conclusively confirmed that they were not accomplished on or after the airplane date of manufacture: Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, obtain and follow instructions for rework using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada; or De Havilland Aircraft of Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Maintenance Task Prohibitions

For all airplanes: As of the effective date of this AD, comply with the prohibitions specified in paragraphs (j)(1) and (2) of this AD.

(1) It is prohibited to use the Bombardier aircraft maintenance manual (AMM) tasks identified in paragraphs (j)(1)(i) through (vii) of this AD, which are specified in the Bombardier Q400, PSM 1–84–2, Revision 63, dated October 5, 2018, or earlier revisions of these tasks. Temporary Revisions (TRs) including these AMM tasks, dated November 2, 2018, or earlier, are also prohibited for use except as specified in paragraph (j)(1)(i) through (vii) of this AD.

(i) Task 28–12–01–000–801, Removal of the Inboard Vent Line, with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–170, dated November 2, 2018.

(ii) Task 28–12–01–400–801, Installation of the Inboard Vent Line, with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–171, dated November 2, 2018.

(iii) Task 28–11–06–000–801, Removal of the Motive Flow Lines, with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–166, dated November 2, 2018.

(iv) Task 28–11–06–400–801, Installation of the Motive Flow Lines, with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–167, dated November 2, 2018.

(v) Task 28–11–16–000–801, Removal of the Scavenge Flow Lines, with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–168, dated November 2, 2018.

(vi) Task 28–11–16–400–801, Installation of the Scavenge Flow Lines, with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–169, dated November 2, 2018.

(vii) Task 28–10–00–280–806, Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line, LH and RH (FSL #284000–406), with the exception of (Bombardier) Q400 Dash 8 AMM TR 28–163, dated August 1, 2018.

(2) It is prohibited to use the Bombardier Q400 Dash 8 Maintenance Task Card Manual (MTCM) task cards identified in paragraphs (j)(2)(i) and (ii) of this AD that are specified in the Bombardier Q400 Dash 8 MTCM, PSM 1–84–7TC, Revision 43, dated May 5, 2018, or earlier revisions or amendments of these task cards. MTCM task card revisions or amendments dated August 1, 2018, or earlier, are also prohibited for use, except as specified in paragraphs (j)(2)(i) and (ii) of this AD.

(i) Bombardier Q400 Dash 8 MTCM Maintenance Task Card 000–28–520–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (LH), with the exception of (Bombardier) Q400 Dash 8 MTCM Maintenance Task Card 000–28–520–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (LH), Revision 43, Amendment 0001, dated August 1, 2018.

(ii) Bombardier Q400 Dash 8 MTCM Maintenance Task Card 000–28–620–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (RH), with the exception of (Bombardier) Q400 Dash 8 MTCM Maintenance Task Card 000–28–620–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (RH), Revision 43, Amendment 0001, dated August 1, 2018.

(k) Other AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

(1) Refer to Transport Canada AD CF–2020–01, dated January 14, 2020, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1151.

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

(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) (Bombardier) Q400 Dash 8 Aircraft Maintenance Manual (AMM) Temporary

Revision (TR) 28–170, dated November 2, 2018.

(ii) (Bombardier) Q400 Dash 8 AMM TR 28–171, dated November 2, 2018.

(iii) (Bombardier) Q400 Dash 8 AMM TR 28–166, dated November 2, 2018.

(iv) (Bombardier) Q400 Dash 8 AMM TR 28–167, dated November 2, 2018.

(v) (Bombardier) Q400 Dash 8 AMM TR 28–168, dated November 2, 2018.

(vi) (Bombardier) Q400 Dash 8 AMM TR 28–169 dated November 2, 2018.

(vii) (Bombardier) Q400 Dash 8 AMM TR 28–163, dated August 1, 2018.

(viii) (Bombardier) Q400 Dash 8 Maintenance Task Card Manual (MTCM) Maintenance Task Card 000–28–520–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (LH), Revision 43, Amendment 0001, dated August 1, 2018.

(ix) (Bombardier) Q400 Dash 8 MTCM Maintenance Task Card 000–28–620–704 (Config A01), Detailed Inspection of the Teflon Sleeve on the Fuel Tank Vent Line (RH), Revision 43, Amendment 0001, dated August 1, 2018.

(x) Bombardier Service Bulletin 84–28–29, dated October 17, 2018.

(xi) Bombardier Service Bulletin 84–28–30, dated October 17, 2018.

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

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

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

Issued on January 10, 2023.

Christina Underwood,

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

[FR Doc. 2023–02370 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0159; Project Identifier MCAI–2023–00046–R; Amendment 39–22326; AD 2023–03–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (AHD) Model BO–105A, BO–105C, BO–105S, BO–105LS A–1, BO–105LS A–3, MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, MBB–BK 117 C–1, MBB–BK 117 C–2, and MBB–BK 117 D–2 helicopters. This AD was prompted by a report of a missing main rotor swashplate (swashplate) inner ring (inner ring). This AD requires inspecting for the presence of the inner ring and, depending on the results, accomplishing additional actions. This AD also prohibits installing an affected swashplate unless it is determined that the inner ring is installed, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 21, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 21, 2023.

The FAA must receive comments on this AD by March 23, 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–2023–0159; 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 listed above.

Material Incorporated by Reference:

- For EASA material that is incorporated by reference in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2023–0159.

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

FOR FURTHER INFORMATION CONTACT: Dan McCully, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1701 Columbia Ave., Mail Stop: ACO, College Park, GA 30337; telephone (404) 474–5548; email *william.mccully@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0159; Project Identifier MCAI–2023–00046–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan McCully, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1701 Columbia Ave., Mail Stop: ACO, College Park, GA 30337; telephone (404) 474–5548; email *william.mccully@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2023–0006–E, dated January 12, 2023 (EASA AD 2023–0006–E), to correct an unsafe condition on Airbus Helicopters Deutschland GmbH (AHD) Model BO105 A, BO105 C, BO105 D, BO105 S, BO105 LS A–1, BO105 LS A–3, MBB–BK117 A–1, MBB–BK117 A–3, MBB–BK117 A–4, MBB–BK117 B–1, MBB–BK117 B–2, MBB–BK117 C–1, MBB–BK117 C–2, and MBB–BK117 D–2 helicopters.

This AD was prompted by a report of a missing inner ring on a Model MBB–BK 117 C–2 helicopter; because the other model helicopters are subject to the same unsafe condition due to design similarity of the swashplate, they are included in this AD's applicability. The FAA is issuing this AD to detect a missing inner ring, which if not addressed, could result in loss of main rotor control and subsequent loss of control of the helicopter.

You may examine EASA AD 2023–0006–E in the AD docket at *regulations.gov* under Docket No. FAA–2023–0159.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0006–E requires inspecting affected swashplates to determine if the inner ring is installed and, if the inner ring is not installed or if it cannot be determined if the inner ring is installed, contacting Airbus Helicopters Deutschland GmbH (AHD) to obtain approved instructions and accomplishing those instructions. EASA AD 2023–0006–E also prohibits installing an affected swashplate unless it is determined that the inner ring is installed.

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

Other Related Service Information

The FAA reviewed Airbus Helicopters Emergency Alert Service Bulletin (EASB) BO105–40A–110, EASB BO105LS–40A–15, EASB BO105 LS A–3–STC–0654/3058–40A–3, EASB MBB–BK117–40A–118, and EASB MBB–BK117–62–32–0001, each Revision 0 and dated January 11, 2023, and co-published as one document. This service information specifies procedures for a one-time visual check for installation of the inner ring. If the inner ring is not installed or if it is difficult to determine if the inner ring is installed, this service information specifies contacting Airbus Helicopters for further instructions before further flight.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2023–0006–E, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2023–0006–E is incorporated by reference in this FAA final rule. This AD, therefore, requires compliance with EASA AD 2023–0006–E in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0006–E does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2023–0006–E. Service information referenced in EASA AD 2023–0006–E for compliance will be available at *regulations.gov* under Docket No. FAA–2023–0159 after this final rule is published.

Differences Between This AD and the EASA AD

This AD is considered interim action and further rulemaking may follow, whereas EASA AD 2023–0006–E is not considered interim action. EASA AD 2023–0006–E applies to Model BO105 D helicopters, whereas this AD does not because that model is not FAA type-certificated.

EASA AD 2023–0006–E requires contacting Airbus Helicopters to obtain approved instructions and accomplishing those instructions, whereas this AD requires accomplishing actions in accordance with a method approved by the FAA, EASA, or Airbus Helicopters Deutschland GmbH's EASA Design Organization Approval. Alternatively, this AD allows replacing the swashplate and requires reporting information to Airbus Helicopters Deutschland GmbH (AHD).

Interim Action

The FAA considers this AD interim action. If final action is later identified,

the FAA might consider further rulemaking then.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because the inner ring is part of the main rotor swashplate, which is critical to the control of a helicopter. A missing inner ring could result in loss of main rotor control during any phase of flight without previous indication. The FAA also has no information pertaining to how quickly the condition may propagate to failure. In light of this, the initial inspection must be accomplished before further flight. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 245 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Visually inspecting the swashplate for the presence of the inner ring takes about 0.5 work-hour for an estimated cost of $43 per helicopter and $10,535 for the U.S. fleet.

The actions that may be needed as a result of the inspection could vary significantly from helicopter to helicopter. The FAA has no data to determine the costs to accomplish the additional actions or the number of helicopters that may require those actions. Alternatively, replacing the swashplate takes about 120 work-hours and parts cost about $99,537 for an estimated cost of $109,737 per helicopter. Reporting information to the manufacturer takes about 1 work-hour for an estimated cost of $85 per helicopter.

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

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:

2023–03–01 Airbus Helicopters Deutschland GmbH (AHD): Amendment 39–22326; Docket No. FAA–2023–0159; Project Identifier MCAI–2023–00046–R.

(a) Effective Date

This airworthiness directive (AD) is effective February 21, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model BO–105A, BO–105C, BO–105S, BO–105LS A–1, BO–105LS A–3 (including those modified by Supplemental Type Certificate SR00043RD), MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, MBB–BK 117 C–1, MBB–BK 117 C–2, and MBB–BK 117 D–2 helicopters, certificated in any category.

Note 1 to paragraph (c): Helicopters with an MBB–BK117 C–2e designation are Model MBB–BK117 C–2 helicopters.

(d) Subject

Joint Aircraft System Component (JASC) Code: 6230, Main Rotor System.

(e) Unsafe Condition

This AD was prompted by a report of a missing main rotor swashplate (swashplate) inner ring (inner ring). The FAA is issuing this AD to detect a missing inner ring. The unsafe condition, if not addressed, could result in loss of main rotor control and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency Emergency AD 2023–0006–E, dated January 12, 2023 (EASA AD 2023–0006–E).

(h) Exceptions to EASA AD 2023–0006–E

(1) Where EASA AD 2023–0006–E refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the service information referenced in paragraph (1) of EASA AD 2023–0006–E specifies that a pilot may check for installation of the inner ring on the swashplate, this AD requires that inspection to be accomplished by persons authorized under 14 CFR 43.3.

(3) Where the service information referenced in paragraph (1) of EASA AD 2023–0006–E and where paragraph (2) of EASA AD 2023–0006–E specify contacting AH [Airbus Helicopters] to obtain further instructions or approved instructions, this AD requires actions done in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or EASA; or Airbus Helicopters Deutschland GmbH's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature. As an option, you may accomplish the actions identified in paragraphs (h)(3)(i) and (ii) of this AD.

(i) Before further flight, replace the affected swashplate.

(ii) At the applicable compliance time identified in paragraph (h)(3)(ii)(A) or (B) of this AD, report the inspection results and describe in detail any other findings, along with the helicopter model and serial number, swashplate part number, and the following text: ''EASB BO105–40A–110, BO105LS–40A–15, BO105 LS A–3–STC–0654/3058–40A–3, MBB–BK117–40A–118, MBB–BK117–62–32–0001'' by email to *support.technical-bulletins.ahd@airbus.com.*

(A) If the inspection in paragraph (1) of EASA AD 2023–0006–E was done on or after the effective date of this AD: Submit the report within 10 days after completing paragraph (1) of EASA AD 2023–0006–E.

(B) If the inspection in paragraph (1) of EASA AD 2023–0006–E was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

(4) This AD does not adopt the Remarks paragraph of EASA AD 2023–0006–E.

(i) Special Flight Permit

Special flight permits are prohibited.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Dan McCully, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1701 Columbia Ave., Mail Stop: ACO, College Park, GA 30337; telephone (404) 474–5548; email *william.mccully@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Emergency AD 2023–0006–E, dated January 12, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0006–E, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this 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 January 31, 2023.

Christina Underwood,

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

[FR Doc. 2023–02502 Filed 2–2–23; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0874; Project Identifier AD–2022–00337–T; Amendment 39–22307; AD 2023–01–13]

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 certain The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; and Model MD–88 airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain center wing lower stringers are subject to widespread fatigue damage (WFD). WFD analysis found that fatigue cracks could grow to a critical length after the structural modification point (SMP) for these center wing lower stringers. This AD requires replacing certain left and right side center wing lower stringers. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 13, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 13, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0874; 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–2022–0874.

FOR FURTHER INFORMATION CONTACT:

Manuel Hernandez, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5256; email: *manuel.f.hernandez@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 The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; and Model MD–88 airplanes. The NPRM published in the **Federal Register** on August 31, 2022 (87 FR 53419). The NPRM was prompted by an evaluation by the DAH indicating that certain center wing lower stringers are subject to WFD. WFD analysis found that fatigue cracks could grow to a critical length after the SMP for these center wing lower stringers. In the NPRM, the FAA proposed to require replacing certain left and right side center wing lower stringers. The FAA is issuing this AD to address potential fatigue cracking of the right and left side center wing lower stringers S–11 through S–22 between wing stations Xcw=13 and Xcw=15. If not addressed, undetected fatigue cracks could grow to a critical length after the SMP at 81,740 total flight cycles. Any undetected cracks in three or more adjacent stringers in the right or left side center wing lower stringers S–11 through S–22 may result in a principal structural element's inability to sustain limit load, which could adversely affect the structural integrity of the airplane. Performing the replacement required by this AD terminates the repetitive inspections required by AD 2020–10–10 Amendment 39–19913 (85 FR 31046, May 22, 2020) (AD 2020–10–10, which addresses the unsafe condition until the airplane reaches the SMP).

Discussion of Final Airworthiness Directive

Comments

The FAA received comments on the NPRM from Boeing, and three individuals. The comments from one individual were outside the scope of this rulemaking. The following presents the comments received and the FAA's response to each comment.

Request To Allow Certified Non-Boeing Mechanics To Perform Replacements

An individual requested that a certified mechanic not hired by Boeing be allowed to perform the replacement specified in the proposed AD. The commenter stated that it appears that Boeing must take care of the replacements, which must be paid for by the airplanes' owners, which could create a conflict of interest. Another commenter suggested that an external party should inspect the repaired airplanes to ensure no further issues will arise.

The FAA agrees to clarify. Unless specified otherwise, ADs allow an FAA-approved licensed mechanic authorized to do maintenance to perform the replacement actions. Operators may therefore use a qualified mechanic of their choice, and do not have to use a Boeing employee for the replacements. The FAA has not changed this AD regarding this issue.

Request To Clarify Certain Language in the Background Section of the Proposed AD

Boeing requested that certain language in the Background section of the proposed AD be changed for clarification. Boeing asked that a sentence describing AD 2020–10–10 be revised. The sentence in the NPRM reads: ''AD 2020–10–10 requires repetitive inspections for cracking in the left and right side center wing lower skin at stringers S–18 through S–20, the fastener holes common to stringers S–11 through S–22, and the forward and aft skins, and repair.'' Boeing asked that the sentence be revised to read: ''AD 2020–10–10 requires repetitive inspections for cracking in the left and right side fastener holes common to stringers S–11 through S–22 and the forward and aft skins, and center wing lower skin at stringers S–18 through S–20, and repair.'' Boeing stated that the revised language would correctly identify the inspection requirements and list them in the same order as the description in the service information.

The FAA agrees that the proposed wording better matches the description in the service information. However, that sentence is not carried over to this final rule. Therefore, the FAA has not changed this AD regarding this issue.

Request To Clarify Certain Language in Paragraph (e) of the Proposed AD

Boeing requested that the language in paragraph (e) of the proposed AD be clarified to specify that this AD is being issued to address ''potential'' fatigue cracking. Boeing stated that not all structure subject to replacement will have developed fatigue cracking and that the required action involves proactive replacement.

The FAA agrees with the request to change the language. The phrase ''address fatigue cracking'' in paragraph (e) of this AD has been changed to read ''address potential fatigue cracking.''

Request To Clarify Certain Language in the Explanation of Compliance Time Paragraph of the Proposed AD

Boeing requested that the language in the Explanation of Compliance Time paragraph of the proposed AD be changed for clarification. Boeing stated that all structure subject to replacement is certified type design and not all will have developed fatigue cracking, therefore replacing the term ''discrepant structure'' with the term ''certain structure'' would be more consistent with the language of the **SUMMARY** section.

The FAA agrees that not all structure subject to replacement will have developed fatigue cracks at SMP. However, that sentence is not carried over to this final rule. Therefore, the FAA has not changed this AD regarding this issue.

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, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021. This service information specifies procedures for replacement of the center wing lower stringers S–11 through S–22 between Xcw=0 and Xcw=121.688, left and right sides.

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 22 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
Replacement	1,572 work-hours × $85 per hour = $133,620	$216,000	$349,620	$7,691,640

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:

2023–01–13 The Boeing Company: Amendment 39–22307; Docket No. FAA–2022–0874; Project Identifier AD–2022–00337–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 13, 2023.

(b) Affected ADs

This AD affects AD 2020–10–10, Amendment 39–19913 (85 FR 31046, May 22, 2020) (AD 2020–10–10).

(c) Applicability

This AD applies to The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; and Model MD–88 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the center wing lower stringers S–11 through S–22 are subject to widespread fatigue damage (WFD). The FAA is issuing this AD to address potential fatigue cracking of the right and left side center wing lower stringers S–11 through S–22 between wing stations Xcw=13 and Xcw=15. If not addressed, undetected fatigue cracks could grow to a critical length after the structural modification point (SMP) at 81,740 total flight cycles. Any undetected cracks in three or more adjacent stringers in the right or left side center wing lower stringers S–11 through S–22 may result in a principal structural element's inability to sustain limit load, which could 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

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin MD80–57A246, dated December 17, 2021, which is referred to in Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021.

(h) Exceptions to Service Information Specifications

Where Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021, specifies contacting Boeing for replacement instructions: This AD requires doing the replacement using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Terminating Action for AD 2020–10–10

Accomplishment of the replacement specified in the Accomplishment Instructions of Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021, terminates all of the requirements of AD 2020–10–10.

(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) 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) Related Information

For more information about this AD, contact Manuel Hernandez, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5256; email: *manuel.f.hernandez@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin MD80–57A246 RB, dated December 17, 2021.

(ii) [Reserved]

(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 January 13, 2023.

Gaetano A. Sciortino,

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

[FR Doc. 2023–02371 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1414; Project Identifier MCAI–2021–01303–E; Amendment 39–22304; AD 2023–01–10]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain GE Aviation Czech s.r.o. (GEAC) M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines. This AD was prompted by the exclusion of life limits for certain compressor cases and compressor drums from the airworthiness limitations section (ALS) of the engine maintenance manual (EMM). This AD was also prompted by certain compressor cases that, following rework, were improperly re-identified and the engine logbook entries were not completed. This AD requires recalculation of the consumed life for the affected compressor cases and compressor drums and, depending on the results of the recalculation, removal and replacement of the affected compressor case or compressor drum with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 13, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 13, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1414; 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 GEAC service information identified in this final rule, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2022–1414.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@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 GEAC M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601E–21, M601F, and M601FS model turboprop engines. The NPRM published in the **Federal Register** on November 09, 2022 (87 FR 67579). The NPRM was prompted by AD 2021–0264, dated November 22, 2021, issued by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union (referred to after this as the MCAI). The MCAI states that the life limits for certain compressor cases and compressor drums were not published in the applicable ALS of the EMM for certain GEAC M601 model turboprop engines. The MCAI also states that following rework of certain compressor cases from part number (P/N) M601–154.6 to P/N M601–154.51, those compressor cases were improperly re-identified and the engine logbook entries were not completed, which could cause the compressor case to remain in service beyond its applicable life limit. This condition can lead to failure of an affected part, possibly resulting in engine mount failure and high energy debris release.

In the NPRM, the FAA proposed to require recalculation of the consumed life for the affected compressor cases and compressor drums and, depending on the results of the recalculation, removal and replacement of the affected compressor case or compressor drum with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1414.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Revision of Paragraph (c), Applicability

In this Final Rule, the FAA has removed GEAC M601E–21 and M601FS model turboprop engines from paragraph (c), Applicability, because those models do not have an FAA type certificate.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes and any other changes described previously, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GEAC Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] and ASB–M601E–72–30–00–0110 [01], (single document; formatted as service bulletin identifier [revision number]), dated October 15, 2021. This service information describes procedures for recalculation of the consumed life of certain compressor cases and compressor drums. This service information also provides the part numbers of the affected compressor cases and compressor drums installed on GEAC M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines.

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 7 engines installed on 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
Recalculate the consumed life of compressor case and compressor drum.	.25 work-hours × $85 per hour = $21.25.	$0	$21.25	$148.75

The FAA estimates the following costs to do any necessary replacements that would be required based on the recalculated consumed life of the affected parts. The agency has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Remove and replace compressor case	10 work-hours × $85 per hour = $850	$5,000	$5,850
Remove and replace compressor drum	40 work-hours × $85 per hour = $3,400	$7,000	$10,400

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–01–10 GE Aviation Czech s.r.o (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–22304; Docket No. FAA–2022–1414; Project Identifier MCAI–2021–01303–E.

(a) Effective Date

This airworthiness directive (AD) is effective March 13, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GE Aviation Czech s.r.o. (GEAC) M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines, with an installed compressor case part number (P/N) M601–154.51, which includes compressor cases identified as, or recorded in the engine logbook as P/N M601–154.6; or with an installed compressor drum having P/N M601–130.7 or P/N M601–134.7.

(d) Subject

Joint Aircraft System Component (JASC) Code 7240, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by the manufacturer's determination that the life limits for certain compressor cases and compressor drums were not published in the applicable airworthiness limitations section of the engine maintenance manual. Additionally, it was determined that following rework, certain compressor cases were improperly re-identified and the engine logbook entries were not completed. The FAA is issuing this AD to prevent the failure of the compressor case and compressor drum. The unsafe condition, if not addressed, could result in engine mount failure and high energy debris release.

(f) Compliance

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

(g) Required Actions

(1) Within 90 days after the effective date of this AD, recalculate the consumed life of the affected compressor case and affected compressor drum in accordance with the formula and lifing coefficients in paragraph 2.B., Table 1 of the Accomplishment Instructions of GEAC Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] ASB–M601E–72–30–00–0110 [01] (single document; formatted as service bulletin identifier [revision number]), dated October 15, 2021.

(2) For GEAC M601E–11, M601E–11A, and M601F model turboprop engines, before the recalculated consumed life of an affected compressor case exceeds 11,000 equivalent flight cycles (FCs), replace the compressor case with a compressor case eligible for installation.

(3) For GEAC M601E–11S and M601E–11AS model turboprop engines, before the recalculated consumed life of an affected compressor case exceeds 11,000 equivalent FCs, or within 12 months after the effective date of this AD, whichever occurs first, replace the compressor case with a compressor case eligible for installation.

(4) For all affected engines with an installed compressor drum having P/N M601–130.7 or M601–134.7, before the recalculated consumed life of the compressor drum exceeds 6,750 equivalent FCs, or within 12 months after the effective date of this AD, whichever occurs first, replace the compressor drum with a compressor drum eligible for installation.

(h) Definition

(1) For the purpose of this AD, a ''compressor case eligible for installation'' is:

(i) For GEAC M601E–11, M601E–11A, and M601F model turboprop engines, an affected compressor case that is identified as P/N M601–154.51 with no reference to other P/N's and that does not have a recalculated consumed life that has exceeded its life limit, or a compressor case that is not P/N M601–154.51.

(ii) For GEAC M601E–11S and M601E–11AS model turboprop engines, a compressor case that is not P/N M601–154.51.

Note 1 to paragraph (h)(1): A compressor case having P/N M601–154.6 is not an approved configuration, and is not eligible for installation.

(2) For the purpose of this AD, a ''compressor drum eligible for installation'' is a compressor drum that is not P/N M601–130.7 or M601–134.7.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in § 39.19. In accordance with § 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(2) of this AD and email to: *ANE-AD-AMOC@faa.gov*.

(j) Additional Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0264, dated November 22, 2021, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1414.

(2) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) GE Aviation Czech Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] and ASB–M601E–72–30–00–0110 [01], (single document; formatted as service bulletin identifier [revision number]), dated October 15, 2021.

(ii) Reserved.

(3) For GEAC service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on January 11, 2023.

Christina Underwood,

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

[FR Doc. 2023–02358 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1557; Airspace Docket No. 22–ACE–21]

RIN 2120–AA66

Amendment of Class D and E Airspace and Revocation of Class E Airspace; Topeka, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D and E airspace and revokes Class E airspace at Topeka, KS. These actions are the result of biennial airspace reviews. The name of Topeka Regional Airport, Topeka, KS, and the geographic coordinates of Philip Billard Municipal Airport, Topeka, KS, are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/*. For further information, you can contact the

Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class D airspace, the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Topeka Regional Airport, Topeka, KS, and Philip Billard Municipal Airport, Topeka, KS, and removes the Class E airspace designated as an extension to Class D and Class E surface airspace areas at Philip Billard Municipal Airport to support instrument flight rule operations at these airports.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (87 FR 75533; December 9, 2022) for Docket No. FAA–2022–1557 to amend the Class D and E airspace and revoke Class E airspace at Topeka, KS. 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, 6002, 6004, and 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class 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 service routes, and reporting points.

Differences From the NPRM

Vertical limits were inadvertently included in the airspace legal descriptions for the Class E surface airspace at Topeka Regional Airport, Topeka, KS, and Philip Billard Municipal Airport, Topeka, KS. The vertical limits were not included in The Proposal of the NPRM, and the vertical limits are not part of the current airspace legal descriptions. Accordingly there is no impact on the airspace, and the vertical limits are not included in this action.

The Rule

This amendment to 14 CFR part 71:

Amends the Class D airspace at Topeka Regional Airport, Topeka, KS, by removing the Forbes Field Airport ILS and RIPLY LOM and the associated extensions from the airspace legal description; updates the header of the airspace legal description from ''Topeka, Forbes Field Airport, KS'' to ''Topeka, KS'' to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order JO 7400.2N; updates the name of the airport (previously Forbes Field Airport) to coincide with the FAA's aeronautical database; and replaces the outdated terms ''Notice to Airmen'' with ''Notice to Air Missions'' and ''Airport/Facility Directory'' with ''Chart Supplement'';

Amends the Class D airspace at Philip Billard Municipal Airport by adding an extension 1 mile each side of the 002° bearing from the airport extending from the 4-mile radius of the airport to 4.1 miles north of the airport; adds an extension 1 mile each side of the 134° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 4-mile radius of the airport to 4.1 miles southeast of the Philip Billard Muni: RWY 13–LOC; adds an extension 1 mile each side of the 314° bearing from the airport extending from the 4-mile radius of the airport to 4.2 miles northwest of the airport; updates the header of the airspace legal description from ''Topeka, Philip Billard Municipal Airport, KS'' to ''Topeka, KS'' to comply with changes to FAA Order JO 7400.2N; removes the city associated with the airport to comply with changes to FAA Order JO 7400.2N; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; removes Forbes Field, KS, from the airspace legal description as it is not required; and replaces the outdated terms ''Notice to Airmen'' with ''Notice to Air Missions'' and ''Airport/Facility Directory'' with ''Chart Supplement'';

Amends the Class E surface airspace at Topeka Regional Airport by removing the Forbes Field Airport ILS and RIPLY LOM and the associated extensions from the airspace legal description; updates the header of the airspace legal description from ''Topeka, Forbes Field Airport, KS'' to ''Topeka, KS'' to comply with changes to FAA Order JO 7400.2N; removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order JO 7400.2N; updates the name of the airport (previously Forbes Field Airport) to coincide with the FAA's aeronautical database; and adds missing part-time language to the airspace legal description;

Amends the Class E surface airspace at Philip Billard Municipal Airport by adding an extension 1 mile each side of the 002° bearing from the airport extending from the 4-mile radius of the airport to 4.1 miles north of the airport; adds an extension 1 mile each side of the 134° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 4-mile radius of the airport to 4.1 miles southeast of the Philip Billard Muni: RWY 13–LOC; adds an extension 1 mile each side of the 314° bearing from the airport extending from the 4-mile radius of the airport to 4.2 miles northwest of the airport; updates the header of the airspace legal description from ''Topeka, Philip Billard Municipal Airport, KS'' to ''Topeka, KS'' to comply with changes to FAA Order JO 7400.2N; removes the city associated with the airport to comply with changes to FAA Order JO 7400.2N; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; removes Forbes Field, KS, from the airspace legal description as it is not required; and replaces the outdated terms ''Notice to Airmen'' with ''Notice to Air Missions'' and ''Airport/Facility Directory'' with ''Chart Supplement'';

Removes the Class E airspace designated as an extension to Class D and Class E surface airspace area at Philip Billard Municipal Airport as it is no longer required;

Amends the Class E airspace extending upward from 700 feet above the surface at Topeka Regional Airport by removing the Forbes Field ILS and associated extension from the airspace legal description; adds an extension 1 mile each side of the 040° bearing from the airport extending from the 7.4-mile radius of the airport to 12.8 miles northeast of the airport; adds an extension 3.9 miles each side of the Forbes TACAN 124° radial extending from the 7.4-mile radius of the airport to 10.4 miles southwest of the Forbes TACAN; adds an extension 1 mile each side of the 220° bearing from the airport extending from the 7.4-mile radius of the airport to 12.8 miles southwest of the airport; updates the header of the airspace legal description from ''Topeka, Forbes Field Airport, KS'' to ''Topeka, KS'' to comply with changes to FAA Order JO 7400.2N; removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order JO 7400.2N; updates the name of the airport (previously Forbes Field Airport) to coincide with the FAA's aeronautical database;

And amends the Class E airspace extending upward from 700 feet above the surface at Philip Billard Municipal Airport by removing the Topeka VORTAC, BILOY LOM, and Philip Billard Municipal Airport ILS Localizer and the associated extensions from the airspace legal description; adds an extension 1.5 miles each side of the 134° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 6.5-mile radius of the airport to 8.1 miles southeast of the Philip Billard Muni: RWY 13–LOC; adds an extension 3.8 miles each side of the 314° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 6.5-mile radius of the airport to 10.9 miles northwest of the Philip Billard Muni: RWY 13–LOC; updates the header of the airspace legal description from ''Topeka, Philip Billard Municipal Airport, KS'' to ''Topeka, KS'' to comply with changes to FAA Order JO 7400.2N; removes the city associated with the airport to comply with changes to FAA Order JO 7400.2N; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is necessary due to biennial airspace reviews.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ACE KS D Topeka, KS [Amended]

Topeka Regional Airport, KS
(Lat. 38°57′03″ N, long. 95°39′49″ W)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.9-mile radius of Topeka Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

ACE KS D Topeka, KS [Amended]

Philip Billard Municipal Airport, KS
(Lat. 39°04′08″ N, long. 95°37′21″ W)
Philip Billard Muni: RWY 13–LOC
(Lat. 39°03′47″ N, long. 95°36′42″ W)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4-mile radius of Philip Billard Municipal Airport, excluding that airspace within the Topeka Regional Airport, Topeka, KS, Class D and Class E surface airspace areas; and within 1 mile each side of the 002° bearing from the airport extending from the 4-mile radius to 4.1 miles north of the airport; and within 1 mile each side of the 134° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 4-mile radius of the airport to 4.1 miles southwest of the Philip Billard Muni: RWY 13–LOC; and within 1 mile each side of the 314° bearing from the airport extending from the 4-mile radius of the airport to 4.2 miles northwest of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

ACE KS E2 Topeka, KS [Amended]

Topeka Regional Airport, KS
(Lat. 38°57′03″ N, long. 95°39′49″ W)

That airspace extending upward from the surface within a 4.9-mile radius of Topeka Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

ACE KS E2 Topeka, KS [Amended]

Philip Billard Municipal Airport, KS
(Lat. 39°04′08″ N, long. 95°37′21″ W)
Philip Billard Muni: RWY 13–LOC
(Lat. 39°03′47″ N, long. 95°36′42″ W)

That airspace extending upward from the surface within a 4-mile radius of Philip Billard Municipal Airport, excluding that airspace within the Topeka Regional Airport, Topeka, KS, Class D and Class E surface airspace areas; and within 1 mile each side of the 002° bearing from the airport extending from the 4-mile radius to 4.1 miles north of the airport; and within 1 mile each side of the 134° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 4-mile radius of the airport to 4.1 miles southwest of the Philip Billard Muni: RWY 13–LOC; and within 1 mile each side of the 314° bearing from the airport extending from the 4-mile radius of the airport to 4.2 miles

northwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ACE KS E4 Topeka, Philip Billard Municipal Airport, KS [Remove]

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

* * * * *

ACE KS E5 Topeka, KS [Amended]

Topeka Regional Airport, KS
(Lat. 38°57′03″ N, long. 95°39′49″ W)
Forbes TACAN
(Lat. 38°56′51″ N, long. 95°39′40″ W)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Topeka Regional Airport; and within 1 mile each side of the 040° bearing from the airport extending from the 7.4-mile radius of the airport to 12.8 miles northeast of the airport; and within 3.9 miles each side of the Forbes TACAN 124° radial extending from the 7.4-mile radius of the airport to 10.4 miles southeast of the Forbes TACAN; and within 1 mile each side of the 220° bearing from the airport extending from the 7.4-mile radius of the airport to 12.8 miles southwest of the airport.

ACE KS E5 Topeka, KS [Amended]

Philip Billard Municipal Airport, KS
(Lat. 39°04′08″ N, long. 95°37′21″ W)
Philip Billard Muni: RWY 13–LOC
(Lat. 39°03′47″ N, long. 95°36′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Philip Billard Municipal Airport; and within 1.5 miles each side of the 134° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 6.5-mile radius of the airport to 8.1 miles southeast of the Philip Billard Muni: RWY 13–LOC; and within 3.8 miles each side of the 314° bearing from the Philip Billard Muni: RWY 13–LOC extending from the 6.5-mile radius of the airport to 10.9 miles from the Philip Billard Muni: RWY 13–LOC.

Issued in Fort Worth, Texas, on February 1, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–02406 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1465; Airspace Docket No. 22–AGL–35]

RIN 2120–AA66

Amendment of Class E Airspace; Minocqua-Woodruff, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Minocqua-Woodruff, WI. This action is due to an airspace review conducted as part of the decommissioning of the Woodruff localizer (LOC). The name of the airport is also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class E airspace extending upward from 700 feet above the surface at Lakeland Airport/Noble F. Lee Memorial Field, Minocqua-Woodruff, WI, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 74049; December 2, 2022) for Docket No. FAA–2022–1465 to amend the Class E airspace at Minocqua-Woodruff, WI. 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 E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface at Lakeland Airport/Noble F. Lee Memorial Field, Minocqua-Woodruff, WI, by adding an extension 4 miles each side of the 001° bearing from the airport extending from the 6.6-mile radius to 11.5 miles north of the airport; removes the city associated with the airport from the airspace legal description to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; and updates the name of the airport (previously Lakeland/Nobel F. Lee Memorial Field Airport) to coincide with the FAA's aeronautical database.

This action is due to an airspace review conducted as part of the decommissioning of the Woodruff LOC which provided navigation information for the instrument procedures at this airport.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AGL WI E5 Minocqua-Woodruff, WI [Amended]

Lakeland Airport/Noble F. Lee Memorial Field, WI
(Lat. 45°55′41″ N, long. 89°43′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Lakeland Airport/Noble F. Lee Memorial Field Airport; and within 4 miles each side of the 001° bearing from the airport extending from the 6.6-mile radius to 11.5 miles north of the airport.

Issued in Fort Worth, Texas, on February 1, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–02402 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1466; Airspace Docket No. 22–AGL–36]

RIN 2120–AA66

Amendment of Class D and E Airspace and Revocation of Class E Airspace; Alton/St. Louis, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D and Class E airspace and revokes Class E airspace at Alton/St. Louis, IL. This is action due to an airspace review conducted as part of the decommissioning of the Civic Memorial non-directional beacon (NDB).

DATES: Effective 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class D airspace and Class E airspace extending upward from 700 feet above the surface and revokes the Class E airspace designated as an extension of Class D airspace at St. Louis Regional Airport, Alton/St. Louis, IL, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 74053; December 2, 2022) for Docket No. FAA–2022–1466 to amend the Class D and Class E airspace and revoke Class E airspace at Alton/St. Louis, IL. 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, 6004, and 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class 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 service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71:

Amends the Class D airspace at St. Louis Regional Airport, Alton/St. Louis, IL, by replacing the outdated term ''Notice to Airmen'' with ''Notice to Air Missions'':

Removes the Class E airspace designated as an extension to Class D airspace at St. Louis Regional Airport as it is no longer required;

And amends the Class E airspace extending upward from 700 feet above the surface at St. Louis Regional Airport by removing the Civic Memorial NDB and associated extension from the airspace legal description.

This action is due to an airspace review conducted as part of the decommissioning of the Civic Memorial NDB which provided navigation information for the instrument procedures at this airport.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AGL IL D Alton/St. Louis, IL [Amended]

St. Louis Regional Airport, IL
(Lat. 38°53′24″ N, long. 90°02′46″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.4-mile radius of the St. Louis Regional Airport, excluding that airspace within the St. Louis, MO, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AGL IL E4 Alton/St. Louis, IL [Remove]

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

* * * * *

AGL IL E5 Alton/St. Louis, IL [Amended]

St. Louis Regional Airport, IL
(Lat. 38°53′24″ N, long. 90°02′46″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of St. Louis Regional Airport.

Issued in Fort Worth, Texas, on February 1, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–02405 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1464; Airspace Docket No. 22–AGL–34]

RIN 2120–AA66

Amendment of Class E Airspace; Austin, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Austin, MN. This action is due to an airspace review conducted as part of the decommissioning of the Austin very high frequency (VHF) omnidirectional range (VOR)/distance measuring equipment (DME). The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class E airspace extending upward from 700 feet above the surface at Austin Municipal Airport, Austin, MN, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 74050; December 2, 2022) for Docket No. FAA–2022–1464 to amend the Class E airspace at Austin, MN. 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 E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 7.3-mile (increased from a 6.3-mile) radius of Austin Municipal Airport, Austin, MN; removes the Austin VOR/DME and the associated extension from the airspace legal description; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is due to an airspace review conducted as part of the decommissioning of the Austin VOR/DME which provided navigation information for the instrument procedures at this airport.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AGL MN E5 Austin, MN [Amended]

Austin Municipal Airport, MN

(Lat. 43°39′46″ N, long. 92°55′59″ W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the Austin Municipal Airport.

Issued in Fort Worth, Texas, on February 1, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–02404 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 679 and 680

[Docket No.: 230111–0005]

RIN 0648–BL50

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to the Economic Data Reports Requirements; Amendment 52 to the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 52 to the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands (Crab FMP) and a regulatory amendment to revise regulations on Economic Data Reports (EDR) requirements for groundfish and crab fisheries off Alaska. This final rule removes third party data verification audits and blind formatting requirements from the Bering Sea and Aleutian Islands (BSAI) crab fisheries EDR, the Bering Sea American Fisheries Act (AFA) pollock fishery Chinook Salmon EDR, and the BSAI Amendment 80 fisheries EDR. This action also eliminates the EDR requirements for the Gulf of Alaska (GOA) trawl fisheries. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Crab FMP, the Fishery Management Plans for Groundfish of the Gulf of Alaska Management Area (GOA FMP) and for the Groundfish of the BSAI Management

Area (BSAI FMP), and other applicable laws.

DATES: Effective March 8, 2023.

ADDRESSES: Electronic copies of Amendment 52 to the Crab FMP, the Regulatory Impact Review (referred to as the ''Analysis''), and the Categorical Exclusion prepared for this rule may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Assistant Regional Administrator, Sustainable Fisheries Division; and to *www.reginfo.gov/public/do/PRAMain*. Find the particular information collection by selecting ''Currently under 30-day Review—Open for Public'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Scott A. Miller 907–586–7416.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska under the BSAI FMP and the GOA FMP. NMFS manages the king and Tanner crab fisheries in the United States EEZ of the BSAI under the Crab FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the BSAI FMP, the GOA FMP, and the Crab FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*

A notice of availability for Amendment 52 to the Crab FMP was published in the **Federal Register** on October 6, 2022, with comments invited through December 5, 2022 (87 FR 60638). The proposed rule to implement Amendment 52 and the regulatory amendments was published in the **Federal Register** on November 1, 2022, with comments invited through December 1, 2022 (87 FR 65724). NMFS received one comment letter from one member of the public. The comment is summarized and responded to under the heading ''Comments and Responses'' below.

A detailed review of the provisions and rationale for this action is provided in the preamble to the proposed rule and is briefly summarized in this final rule.

Background

Four EDR data collection programs are in place for crab and groundfish fisheries in the EEZ off Alaska. These programs impose mandatory annual data reporting requirements for regulated entities participating in the BSAI Crab Rationalization (CR) fisheries, the AFA pollock fishery, the BSAI Amendment 80 fisheries, and the GOA trawl fisheries. The purposes of EDRs are to gather data and information to improve the analyses developed by the Council on the social and economic effects of the catch share or rationalization programs, to understand the economic performance of participants in these programs, and to help estimate impacts of future issues, problems, or revisions to the programs covered by the EDRs.

CR Program EDR

The Crab EDR was implemented concurrently with the CR Program under Amendments 18 and 19 of the BSAI Crab FMP (70 FR 10174, March 2, 2005). The rule requiring the Crab EDR submission was codified in 50 CFR 680.6, which retroactively required participants to submit EDR forms for 1998, 2001, and 2004 calendar year operations by June 1, 2005, as well as to submit an annual Crab EDR form for calendar year 2005 and thereafter by May 1 of each following year. Amendment 42 (78 FR 36122, June 17, 2013) revised annual Crab EDR reporting requirements in order to eliminate redundant reporting requirements, standardize reporting across participants, and reduce costs associated with data collection. The amended rule extended the annual submission deadline to July 31.

The reporting requirements for the Crab EDR apply to owners and leaseholders of catcher vessels (CVs) and catcher/processors (CPs) with landings of BSAI CR crab, including Community Development Quota (CDQ) allocated crab, and owners and leaseholders of Registered Crab Receivers (RCRs) who purchase and/or process landed BSAI CR crab during a calendar year. For all groups, the annual submission requirement is imposed on CR crab program participants who harvest, purchase, or process CR crab.

The Crab EDR consists of reporting forms developed for three respective sectors: the Crab CV EDR, Crab processor EDR, and the Crab CP EDR. The CV and processor forms collect distinct sets of data elements, with the CP form combining all data elements collected in the CV form and applicable elements from the processor form. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

Amendment 80 EDR

The Amendment 80 EDR was implemented on January 20, 2008 (72 FR 52668, September 14, 2007) as part of the Amendment 80 management program and codified in regulation at 50 CFR 679.94. Amendment 80 allocated several BSAI non-pollock trawl groundfish species among trawl fishery sectors and facilitated the formation of harvesting cooperatives in the non-AFA trawl CP sector. The initial Amendment 80 EDR submissions were due June 1, 2009, reporting data for the 2008 calendar year. The Amendment 80 EDR reporting requirements applied to all Amendment 80 Quota Share (QS) permit holders. Permit holders who actively operated an Amendment 80 vessel were required to complete the entire EDR form, while QS permit holders who did not operate a vessel were required to complete portions of the form pertaining to QS permit sale or lease costs and revenues.

When the GOA Trawl EDR program was implemented for both CV and CP participants, it amended the Amendment 80 EDR at 50 CFR 679.94 to include the CPs participating in GOA trawl fisheries. It also changed the name of the form from the Amendment 80 EDR to the Annual Trawl CP EDR. Additional reporting elements specific to GOA Trawl CPs were added to the form. The rule also extended the requirement to complete all portions of the EDR form to owners and leaseholders of any vessel named on a License Limitation Program (LLP) groundfish license authorizing a CP using trawl gear to harvest and process LLP groundfish species in the GOA. The association between the GOA Trawl (CV and shoreside processor) EDR and Annual Trawl CP EDR has resulted in confusion. For the sake of clarity, in this final rule, the EDR currently specified under 50 CFR 679.94 is referenced as the Amendment 80 EDR (rather than the Annual Trawl CP EDR), and the EDR under 50 CFR 679.110(a)(1) and (2) is referenced as the GOA Trawl EDR; any relevant distinctions or overlaps are described as needed.

The Amendment 80 EDR form has been submitted annually by Amendment 80 QS holders since 2008. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

GOA Trawl EDR

The GOA Trawl EDR was implemented on January 1, 2015 (79 FR 71313, December 2, 2014) and codified in regulation at 50 CFR 679.110. The initial GOA Trawl EDR submissions

were due June 1, 2016, for reporting 2015 calendar year data. The GOA Trawl EDR was implemented to collect relevant baseline information that could be used to assess the impacts of a future catch share program on affected harvesters, processors, and communities in the GOA. However, Council action on a catch share program that addressed issues with GOA bycatch management was suspended in December 2016, and no catch share program exists for GOA harvesters, processors, and communities.

The intended submitters for the GOA Trawl EDR includes owners and leaseholders of CVs and CPs active in the Central and Western GOA groundfish trawl fishery and operators of shoreside processing facilities that receive groundfish catch from the GOA. The EDR consists of two distinct EDR forms, the GOA Trawl CV EDR and GOA Shoreside Processor EDR. An additional EDR form overlaps with the Amendment 80 EDR, as described above.

The GOA Trawl CV EDR form is required for all trawl CVs that harvested groundfish in the GOA during the previous year. The GOA Shoreside Processor EDR form is required for all shore-based processors that receive and process groundfish from GOA trawl fisheries. The Annual Trawl CP EDR form is required for all vessel owners and leaseholders that catch and process groundfish in the GOA trawl fisheries. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

Amendment 91 Chinook Salmon EDR

The Amendment 91 EDR and additional record keeping and reporting requirements associated with monitoring of Chinook salmon bycatch avoidance measures for the AFA pollock fishery were implemented concurrently on March 5, 2012 (77 FR 5389, February 3, 2012). The implementation of the Amendment 91 EDR occurred approximately 17 months after Amendment 91 (75 FR 53026, August 30, 2010) went into effect. The initial submission of EDR forms required under 50 CFR 679.65 were due on June 1, 2013, reporting data for the 2012 calendar year. The Amendment 91 EDR was implemented to provide additional data to assess the effectiveness of the Chinook salmon bycatch management measures in the Bering Sea (BS) pollock fishery.

The Amendment 91 EDR reporting requirement applies to owners and leaseholders of AFA CVs, CPs, and motherships active in the BS pollock fishery and to entities eligible to receive Chinook salmon Prohibited Species Catch (PSC) allocation, including AFA in-shore sector harvest cooperative representatives, sector-based Incentive Plan Agreement representatives, and CDQ group representatives. In addition, vessel masters who actively participate in the AFA pollock fishery are required to complete the Amendment 91 Vessel Master Survey form and NMFS allows the owner or leaseholder of the vessel to submit this information, from multiple vessel masters, electronically to reduce respondent burden.

The Amendment 91 EDR program consists of three separate forms: the Compensated Transfer Report (CTR), the Vessel Fuel Survey, and the Vessel Master Survey. The CTR collects transaction data on all compensated transfers of Chinook PSC by participants in the AFA fishery. The CTR is to be completed by all entities participating as lessor or lessee in compensated transfers of Chinook PSC. However, no such transactions have ever been reported. The Vessel Fuel Survey form is required for all AFA vessels that harvested BSAI pollock during the previous year and collects information about the vessel's average fuel consumption, the total amount in gallons of fuel loaded onto the vessel, and total annual fuel cost. The Vessel Master Survey form is used to determine the fishing and bycatch conditions observed during the BSAI pollock fishery and factors that motivated Chinook salmon bycatch avoidance. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

History and Need for This Action

The Council developed this action beginning in February 2018 and made its final recommendation to NMFS after considerable public input in February 2022. This action removes third party data verification audits and blind formatting requirements from the Bering Sea and Aleutian Islands (BSAI) crab fisheries EDR, the Bering Sea American Fisheries Act (AFA) pollock fishery Chinook Salmon EDR (Amendment 91 EDR), and the BSAI Amendment 80 fisheries EDR, and eliminates the EDR requirements for the Gulf of Alaska (GOA) trawl fisheries. Removing the third party audit requirements reduces costs incurred for NMFS to administer the EDR program and associated cost recovery fees paid by industry while maintaining data quality due to the automated EDR data verification procedures that remain in place. Additionally, enforcement provisions exist for all recordkeeping and reporting requirements, including the EDR program. A detailed explanation of the history of this action and need for this action is provided in the preamble to the proposed rule and not repeated here (87 FR 65724, November 1, 2022).

Final Rule

This final rule removes or revises regulations at 50 CFR parts 679 and 680. This final rule removes third-party data verification audits for the Crab EDR, the Amendment 91 EDR, and the Amendment 80 EDR and removes blind formatting requirements for the Crab EDR. This action also eliminates the GOA Trawl EDR requirements.

Eliminating Data Verification Audits

This final rule removes the data verification audit requirements at § 679.65(e), § 679.94(b), and § 680.6(f). Removal of the audit authorization eliminates the need for the data collection agent (DCA) to contract with a third-party auditor to conduct the audit portion of the data verification. EDR data verification currently employs a series of mainly automated validation procedures, including an audit process with the DCA. Except for removal of the audit process, these data validation procedures remain and continue to ensure the data reported are error-free. Enforcement actions will continue in cases of noncompliance with the EDR provisions as part of normal enforcement of recordkeeping and reporting requirements.

This final rule also removes the definitions for ''Designated data collection auditor'' at § 679.2 and ''Auditor'' at § 680.2. Because this final rule removes the EDR audit requirements, these definitions are no longer needed.

Eliminating Blind Formatting

This final rule removes the definitions for ''Blind data'' at § 679.2 and § 680.2. Both definitions describe the required formatting process to remove the personal identifiers to the data collected from the EDRs. The identifiers include Federal fisheries permit numbers and State of Alaska vessel registration numbers that are essential data elements to analysts when developing reports and documents based on EDR data. Removing the blind formatting requirements makes the data aggregations and confidentiality protections for the Crab EDR comparable to the requirements under the other EDR programs. It also increases the usability and access to the EDR data for Council and NMFS analysts.

Eliminating the GOA Trawl EDR

This final rule removes and reserves Subpart J—Gulf of Alaska Trawl Economic Data. The original purpose of the GOA Trawl EDR was to establish a baseline information collection that could be used to assess the impacts of a catch share program. However, no catch share program has been developed to date or is currently contemplated. The original need for this data collection program has diminished since 2016 when the Council suspended work on a possible GOA catch share program, calling into question the efficacy of continuing the program. Eliminating the GOA Trawl EDR removes compliance costs for industry as well as agency costs, as the GOA Trawl fishery is not managed under a catch share program subject to cost recovery.

This final rule also revises the section heading at § 679.94 and revises § 679.94(a)(1) to remove GOA Trawl CPs from the requirement to submit the Amendment 80 EDR form. When the GOA Trawl EDR program was implemented, it required owners and leaseholders of any vessel named on an LLP groundfish license authorizing a CP using trawl gear to harvest and process LLP groundfish species in the GOA to complete all portions of the Amendment 80 EDR form. This final rule limits the Amendment 80 EDR requirement to Amendment 80 QS permit holders alone.

Comments and Responses

NMFS received one unique comment from one member of the public on the proposed rule.

Comment 1: The commenter asserts that removing data verification allows increasing corruption in management of the North Pacific fishery. The commenter further asserts that corrupt management by this agency will result in fish species going extinct and further asserts that this has happened in most areas managed by this agency. The commenter further asserts that the commercial fishing industry has undue influence in the management process and that management of the public resource is being compromised by excessive quotas resulting in starvation, and human predation, of marine mammals. Finally, the commenter asserts that there is no environmental conservation occurring, that there is no reason for this action, and that the action is objectionable.

Response: NMFS acknowledges the comment regarding the proposed rule's inadvertent removal of the DCA data verification process in regulatory text edits. In accordance with the proposed rule's goal, this final rule revises the regulations to remove only the authorization for data verification audits. This final rule retains data verification regulations and data verification procedures remain in place. This final rule eliminates the automated audits of EDR submissions, as analysis has shown that no data verification audit, over the entire history of the EDR program, has resulted in a finding of noncompliance. The remainder of the comment is outside of the scope of this action. This final rule addresses the collection of EDR data and is not intended to broadly manage commercial or subsistence fisheries. NMFS manages commercial, recreational, and subsistence fisheries consistent with the provisions of the Magnuson-Stevens Act and other applicable law.

Changes From Proposed to Final Rule

NMFS made three changes to the final rule that are related to both the comment received on the proposed rule and internal review. Namely, this final rule corrects inadvertent errors in the regulatory text included in the proposed rule. The preamble to the proposed rule accurately stated that, except for the audit component, the data verification process would remain in place. And, indeed, the Council did not recommend removal of the data verification process by the DCA and the Analysis prepared in support of this action specifically indicates that the data verification procedures will continue. But the proposed rule regulatory text edits inadvertently proposed deleting data verification processes that were meant to remain in place. This final rule corrects those errors as further detailed below.

First, in § 679.65, which describes the Chinook Salmon EDR program, NMFS inadvertently proposed deleting the entirety of paragraph (e), which includes regulation text describing both the EDR verification and audit procedures. This final rule revises the introductory text to paragraph (e) to remove the references to audit procedures and the associated designated data collection auditor (DDCA). Paragraph (e)(1) is revised to change the reference to the DDCA to the DCA; paragraph (e)(2), which describes the audit process, is removed. Second, in § 679.94, NMFS inadvertently proposed removing the entirety of paragraph (b), which includes regulations pertaining to both the EDR verification process and the audit process. This final rule revises paragraph (b)(1) and (2) to remove only the reference to the DDCA; paragraph (b)(3), which describes the audit process, is removed. Third, NMFS inadvertently proposed removing the entirety of §§ 680.6(f) and (g). This final rule removes only paragraph (f)(3), in order to remove the requirement to provide copies of additional data to the DDCA. Removal of paragraph (f)(3) is consistent with the removal of the third party audit process. Paragraph (g) remains unchanged from the proposed rule and provides the DCA with the authorization to request voluntary submission of economic data that may be used in the data verification process, which will remain in place after the removal of the third party audit process.

Other Regulatory Changes

This final rule revises regulations at §§ 680.6(a)(2), (a)(3), (c), (d), (e)(1), and (e)(2) to update the instructions for submitting Crab EDR forms to be consistent with the submission instructions for the Amendment 80 EDR implemented in 2008.

OMB Revisions to PRA References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the Paperwork Reduction Act (PRA) requires that agencies inventory and display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency's information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this rule discontinued the collection-of-information for OMB Control Number 0648–0700 and removes § 679.110, 15 CFR 902.1(b) is revised to correctly reference these changes.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Regulatory Impact Review

A Regulatory Impact Review was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended Amendment 52 and the regulatory revisions in this final rule based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed above in the Certification under the Regulatory Flexibility Act section.

Collection-of-Information Requirements

This final rule contains information collection requirements subject to the PRA and which have been approved by the Office of Management and Budget OMB. OMB has approved discontinuing OMB Control Number 0648–0700 (Gulf of Alaska Catcher Vessel and Processor Trawl EDR), which covered the economic data collection requirements for the GOA Trawl EDR Program. OMB Control Number 0648–0700 was discontinued on December 31, 2022.

This final rule contains collection of information requirements subject to review and approval by OMB under the PRA. NMFS has submitted these requirements to OMB for approval under OMB control numbers 0648–0518 (Alaska Region Bering Sea and Aleutian Islands Crab EDRs); 0648–0564 (Groundfish Trawl Catcher/Processor EDR); and 0648–0633 (Alaska Chinook Salmon EDR). The public reporting burden for the information collection requirements provided below includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Control Number 0648–0518

NMFS revises and extends by three years OMB Control Number 0648–0518. This collection covers the economic data collection requirements for the CR Program and is necessary to monitor and evaluate the CR Program.

This collection is revised to remove third-party data verification audits and blind formatting requirements for the BSAI crab fisheries EDR because this final rule removes these requirements. The three crab EDR forms are revised to pre-fill data fields that do not change frequently to reduce the burden of the crab EDR forms. Pre-filling the data fields is estimated to reduce the respondent's data entry time by 15 minutes. However, since the burden hour estimates for the forms are rounded to the nearest hour, this modest reduction will not decrease the public reporting burden.

Public reporting burden per individual response is estimated to average 20 hours each for the Annual Catcher Vessel Crab EDR and the Annual CP Crab EDR, 16 hours for the Annual Processor Crab EDR, and 1 hour for an EDR certification page.

The estimated number of respondents for this collection is 77; the estimated total annual burden hours is 1,449 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is $385.

OMB Control Number 0648–0564

NMFS revises and extends by three years OMB Control Number 0648–0564. This collection covers the economic data collection requirements for Amendment 80 and GOA trawl CPs. This collection is necessary to help evaluate the Amendment 80 Program, including program-eligible trawl CPs, and is used by NMFS and the Council to assess the impacts of major changes in the groundfish management regime, including programs for prohibited species catch species and target species.

This collection is revised to remove third-party data verification audits for the Annual Trawl Catcher/Processor EDR and remove requirements for the GOA Trawl EDR Program because this final rule removes regulations for the audit authorization and eliminates the GOA Trawl EDR Program. Eliminating the program simplifies the Annual Trawl Catcher/Processor form. This form is revised to remove data fields that are not being used in analyses and to pre-fill data fields that do not change frequently. These changes to the form are expected to reduce the time burden per respondent by approximately two hours.

Public reporting burden per individual response is estimated to average 20 hours for the Annual GOA Trawl Catcher/Processor EDR.

The estimated number of respondents for this collection is 22; the estimated total annual burden hours are 440 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is $110.

OMB Control Number 0648–0633

NMFS revises OMB Control Number 0648–0633 to remove the verification audit for the Compensated Transfer Report because this final rule removes the authorization for third party data verification audits.

Public reporting burden per individual response is estimated to average 40 hours for the Compensated Transfer Report, 4 hours for the Vessel Fuel Survey, and 4 hours for the Vessel Master Survey.

Public Comment

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for these information collections should be submitted on the following website: *http://www.reginfo.gov/public/do/PRAMain.* Find the particular information collection by using the search function and entering either the title of the collection or the OMB Control Number.

Notwithstanding any other provisions of law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *https://www.reginfo.gov/public/do/PRASearch.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Reporting and recordkeeping requirements.

Dated: January 27, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR parts 679 and 680 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

§ 902.1 [Amended]

■ 2. In § 902.1, in the table in paragraph (b), under the heading ''50 CFR'', remove the entry for ''679.110(a) through (f)''.

* * * * *

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

§ 679.2 [Amended]

■ 4. In § 679.2, remove the definitions for ''Blind data'' and ''Designated data collection auditor''.

■ 5. In § 679.65, revise paragraph (e) to read as follows:

§ 679.65 Bering Sea Chinook Salmon Bycatch Management Program Economic Data Report (Chinook salmon EDR program).

* * * * *

(e) *Chinook salmon EDR verification procedures.* NMFS or the data collection agent (DCA) will conduct verification of Chinook salmon EDR information with the persons identified at § 679.65(b)(1), (b)(2), (c)(1), (d)(1)(i), and (d)(1)(ii).

(1) The persons identified at § 679.65(b)(1), (b)(2), (c)(1), (d)(1)(i), and (d)(1)(ii) must respond to inquiries by NMFS and its DCA for purposes of the CTR, within 20 days of the date of issuance of the inquiry.

(2) [Reserved].

■ 6. In § 679.94, revise the section heading, paragraph (a)(1), paragraphs (b)(1) and (2), and remove paragraph (b)(3) to read as follows:

§ 679.94 Economic data report (EDR) for the Amendment 80 sector.

(a) * * *

(1) *Requirement to submit an EDR.* A person who held an Amendment 80 QS permit during a calendar year must submit a complete Annual Trawl Catcher/Processor EDR for that calendar year by following the instructions on the Annual Trawl Catcher/Processor EDR form.

* * * * *

(b) * * * (1) NMFS or the DCA will conduct verification of information with a person required to submit the Annual Trawl Catcher/Processor EDR, or if applicable, that person's designated representative.

(2) A person required to submit the Annual Trawl Catcher/Processor EDR or designated representative, if applicable, must respond to inquiries by NMFS, the DCA within 20 days of the date of issuance of the inquiry.

* * * * *

Subpart J—[Removed and Reserved]

■ 7. Remove and reserve subpart J, consisting of § 679.110.

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 8. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

§ 680.2 [Amended]

■ 9. In § 680.2, remove the definitions for ''Auditor'' and ''Blind data''.

■ 10. In § 680.6, revise paragraphs (a)(2) and (3), (c), (d), (e)(1) and (2), and remove paragraph (f)(3) to read as follows:

§ 680.6 Crab economic data report (EDR).

(a) * * *

(2) A completed EDR or EDR certification pages must be submitted to NMFS, in the manner specified on the NMFS-issued EDR form, for each calendar year on or before 1700 hours, A.l.t., July 31 of the following year.

(3) Annual EDR forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors are available on the NMFS Alaska Region website at *https://alaskafisheries.noaa.gov* or by contacting NMFS at 1–800–304–4846.

* * * * *

(c) *Annual catcher vessel crab EDR.* Any owner or leaseholder of a catcher vessel that landed CR crab in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed catcher vessel EDR for annual data for the previous calendar year.

(d) *Annual catcher/processor crab EDR.* Any owner or leaseholder of a catcher/processor that harvested or processed CR crab in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed catcher/processor EDR for annual data for the previous calendar year.

(e) * * * (1) Any owner or leaseholder of an SFCP or a shoreside crab processor that processed CR crab, including custom processing of CR crab performed for other crab buyers, in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed processor EDR for annual data for the previous calendar year.

(2) Any holder of a registered crab receiver (RCR) permit that obtained custom processing for CR Program crab in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed processor EDR for annual data for the previous calendar year.

* * * * *

[FR Doc. 2023–02117 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R09–OAR–2022–0623; FRL–10031–03–R9]

Clean Air Act Operating Permit Program; California; San Diego County Air Pollution Control District; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: On December 23, 2022, the Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** to approve revisions to the Clean Air Act (CAA or ''Act'') Operating Permit Program (title V) of the San Diego County Air Pollution Control District (SDCAPCD or ''District'') in California. In that rulemaking, the EPA included an incorrect effective date in Section VI of the document and in the instructions to amend the regulatory text. This document corrects the errors in the direct final rule.

DATES: This correction is effective February 21, 2023.

FOR FURTHER INFORMATION CONTACT: La Weeda Ward, Permits Office (Air–3–1), U.S. Environmental Protection Agency, Region IX, (213) 244–1812, *ward.laweeda@epa.gov.*

SUPPLEMENTARY INFORMATION: In our direct final rule published December 23, 2022 (87 FR 78871), the EPA included an incorrect effective date in the document and instructions to amend the regulatory text. We are correcting the effective date to the date 60 days after publication in the **Federal Register** because the language in 40 CFR 70.4(b)(11)(i) states that part 70 sources have one year to submit permit applications after the effective date of the permit program. Final rules from past actions in California match the effective date of the program with the

effective date of the federal rule, as indicated by the amendatory instructions to change the regulatory text in 40 CFR part 70, appendix A. See, *e.g.,* 68 FR 74871 (December 29, 2003) (a direct final rule), 68 FR 65637 (November 21, 2003), and 77 FR 54382 (September 5, 2012).

The direct final rule published on December 23, 2022 (87 FR 78871) matches the effective date of the program with the publication date of the rule, which would give sources less than one year from the program effective date to submit their applications. The following amendatory instructions correct the effective dates in Section VI and the regulatory text in FR Doc. 2022–27725 appearing on pages 78871–78874 in the **Federal Register** of Friday, December 23, 2022:

VI. Final Action [Corrected]

■ 1. On page 78874, at the top of the first column, the text ''If we do not receive timely adverse comments, this direct final approval will be effective without further notice on December 23, 2022.'' is corrected to read ''If we do not receive timely adverse comments, this direct final approval will be effective without further notice on February 21, 2023.''

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs [Corrected]

■ 2. On page 78874, in the middle of the third column, the text ''(6) The District adopted revisions on October 14, 2021. The California Air Resources Board submitted revisions to the EPA on January 24, 2022. Approval is effective on December 23, 2022.'' is corrected to read ''(6) The District adopted revisions on October 14, 2021. The California Air Resources Board submitted revisions to the EPA on January 24, 2022. Approval is effective on February 21, 2023.''

Dated: January 26, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2023–02138 Filed 2–3–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket No. 21–232 and EA Docket No. 21–233; FCC 22–84; FR ID 120432]

Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends its rules related to equipment authorization to further secure our communications networks and supply chain from equipment that poses an unacceptable risk to national security of the United States or the security and safety of United States persons. The Commission implements revisions to the equipment authorization program to prohibit authorization of equipment that has been identified on the Commission's Covered List—published pursuant the Secure and Trusted Communications Networks Act of 2019—as posing an unacceptable risk to national security of the United States or the security or safety of United States persons, and the Commission prohibits the marketing and importation of such equipment in the United States. The Commission also addresses what constitutes ''covered'' equipment for purposes of implementing the equipment authorization prohibition that the Commission is implementing. The actions being taken comply with Congress's directive in the secure Equipment Act of 2021 to prohibit authorization of ''covered'' equipment on the Covered List within one year of that Act's enactment and to lay the foundation to prohibit the authorization of any additional ''covered'' equipment that may be added to the Covered List based on a determination that such equipment poses an unacceptable risk to national security.

DATES: Effective February 6, 2023.

FOR FURTHER INFORMATION CONTACT: Jamie Coleman, Office of Engineering and Technology, (202) 418–2705 or *Jamie.Coleman@FCC.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole Ongele, (202) 418–2991 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report and Order, Order, and Further Notice of Proposed Rulemaking, ET Docket No. 21–232 and EA Docket No. 21–233; FCC 22–84, adopted November 11, 2022 and released November 25, 2022. The full text of this document is available for public inspection and can be downloaded at: *https://www.fcc.gov/document/fcc-bans-authorizations-devices-pose-national-security-threat.* When the FCC Headquarters reopens to the public, the full text of this document also will be available for public inspection and copying during regular business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *FCC504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Procedural Matters

Final Regulatory Flexibility Analyses. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Second Order on Reconsideration on small entities. As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (*NPRM*) (86 FR 46644, August 19, 2021). The Commission sought written public comment on the proposals in the *NPRM,* including comments on the IRFA. No comments were filed addressing the IRFA. Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the document on small entities. The present FRFA conforms to the RFA and can be viewed under Appendix B of the item.

Paperwork Reduction Act. This document contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It was submitted to the Office of Management and Budget (OMB) for emergency review under section 3507(d) of the PRA. Public comment on this

submission has been waived pursuant to 5 CFR 1320.13(d). Amendments of parts 2 and 15 of the Commission's rules as set forth in Appendix A are effective on the date of publication in the **Federal Register**, including §§ 2.903(b), 2.911(d)(5), (6), and (7); 2.929(c); 2.932(e); 2.938(b)(2); 2.1033(b)(1), (2), (3), and (4); 2.1033(c)(1), (2), (3), and (4); 2.1043(b)(2)(i)(B), (C), (D), and (E); and 2.1043(b)(3)(i)(B), (C), (D), and (E), which contain new and modified information collection requirements that were reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, with an expiration date of June 30, 2023. The Office of Engineering and Technology establishes and announces the effective date of these sections in this document published in the **Federal Register**.

Because the emergency approval of this information collection has an expiration date of June 30, 2023, the Commission, as part of its continuing effort to reduce paperwork burdens and in the standard course of information collection review procedures, will issue a separate document inviting the general public to comment on the information collection requirements contained in this Final Rule as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission has described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Final Regulatory Flexibility Analysis (FRFA), and can be viewed under Appendix B of the item.

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

Synopsis

Background

In the *Notice of Proposed Rulemaking* (86 FR 46644, August 19, 2021) and *Notice of Inquiry* (86 FR 46641, August 19, 2021) (*NPRM* and *NOI*), the Commission proposed to revise its rules and procedures relating both to its equipment authorization program and its competitive bidding program to leverage the processes associated with these programs to help keep untrusted equipment and vendors out of U.S. networks. As the Commission made clear, the efforts underway in the instant proceedings are intended to be among the additional steps that the Commission is taking to be consistent with, and build upon, other efforts underway at the Commission, Congress, and the Executive Branch to protect our nation's supply chain from equipment and services that pose a national security risk or a threat to the safety of U.S. persons.

In March 2020, the Secure Networks Act was enacted. These provisions include: requiring (pursuant to section 2(a)) that the Commission publish, and periodically update, a list of ''covered communications equipment and services'' that have been determined to pose national security risks, requiring (per section 2(b)) that the Commission place on that list the equipment or services that are produced or provided by entities and meets certain capabilities, and further requiring (per section 2(c)) that the equipment or services placed on the list be ''based solely on'' determinations made by four enumerated sources. In particular, these determinations and sources are limited to—(1) a ''specific determination made by any executive branch interagency body with appropriate national security expertise, including the Federal Acquisition Security Council . . .;'' (2) a ''specific determination made by the Department of Commerce pursuant Executive Order No. 13873 . . . relating to securing the information and communications technology and services supply chain;'' (3) the ''communications equipment or service being covered telecommunications equipment or services, as defined in § 889(f)(3) of [the 2019 NDAA];'' or (4) a ''specific determination made by an appropriate national security agency.''

The Secure Networks Act also adopted other provisions. These included requiring the Commission to: prohibit any Federal subsidy made available through a program administered by the Commission that provides funds used for the capital expenditures necessary for the provision of advanced communications service to purchase or otherwise obtain or maintain ''covered'' communications equipment or services (section 3); establish the Secure Networks Act Reimbursement Program to make reimbursements to certain advanced communications service providers to facilitate the removal, replacement, and disposal of certain ''covered'' communications equipment and services (section 4); and require each provider of advanced communications service to submit annual reports to the Commission regarding whether it has purchased, rented, leased, or otherwise obtained and ''covered'' communications equipment or services on or after August 14, 2018 or 60 days after new covered equipment and services are subsequently added to the Covered List (section 5).

Pursuant to the Secure Networks Act and § 1.50002(a) of the Commission's rules, PSHSB is required to publish the ''Covered List,'' which identifies ''covered communications equipment or service'' that has been determined, by one or more of four enumerated sources outside of the Commission, as posing an unacceptable risk to the national security of the United States or the security and safety of United States persons. The Commission tasked PSHSB with ongoing responsibilities for monitoring the status of the determinations and periodically updating the Covered List to address changes as appropriate.

On March 12, 2021, PSHSB published its first Public Notice on the Covered List. That list specifically identified equipment and services that, pursuant to the Secure Networks Act, had been determined by Congress in section 889(f)(3) of the 2019 NDAA—one of the four enumerated sources identified under the Secure Networks Act—as posing an unacceptable risk to national security. Among others things, that Covered List listed as ''covered'' equipment certain equipment produced by five different entities: Huawei, ZTE, Hytera, Hikvision, and Dahua (and their respective subsidiaries and affiliates).

On March 25, 2022, PSHSB published a Public Notice updating the Covered List; this list retained the earlier identified ''covered'' equipment (equipment produced by Huawei, ZTE, Hytera, Hikvision, and Dahua) while announcing additions to the Covered List based on new determinations by two of the other enumerated sources, DHS and an executive branch interagency body (Team Telecom) with appropriate expertise. Most recently, on September 20, 2022, PSHSB published another Public Notice updating the Covered List; this list also retained the earlier identified ''covered'' equipment (equipment produced by Huawei, ZTE, Hytera, Hikvision, and Dahua) while announcing certain additions to the Covered List based on new

determinations by the Department of Justice, in coordination and concurrence with the Department of Defense.

The NPRM and NOI. The Commission adopted an NPRM and an NOI on June 17, 2021. This initiated two separate dockets, with one docket concerning revisions to the Commission's equipment authorization program and the other concerning the Commission's competitive bidding program. In the NOI, the Commission sought broad comment on possible additional steps that it could take to leverage the equipment authorization program to promote cybersecurity.

NPRM concerning the Equipment Authorization Program (ET Docket No. 21–232). The Commission's equipment authorization rules play a critical role in enabling the Commission to carry out its responsibilities under the Communications Act. The Commission's equipment authorization program, codified in part 2 of its rules, promotes efficient use of the radio spectrum and addresses various responsibilities associated with certain treaties and international regulations, while ensuring that RF devices in the United States comply with the Commission's technical requirements before they can be marketed in or imported to the United States. As a general matter, for an RF device to be marketed or operated in the United States, it must have been authorized for use by the Commission, although a limited number of categories of RF equipment are exempt from this requirement.

In the NPRM, the Commission proposed to revise its equipment authorization program under its part 2 rules to prohibit authorization of ''covered'' equipment on the Commission's Covered List, *i.e.,* equipment that had been determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. To achieve this goal, the Commission proposed to revise the rules and procedures for its two pathways for equipment authorization—certification and the supplier's declaration of conformity (SDoC). Recognizing that ''covered'' equipment might also include some equipment that is currently exempted from authorization requirements, the Commission sought comment on whether such exemptions should continue. The Commission also sought comment on whether any existing equipment authorization of ''covered'' equipment should be revoked, and if so, under what procedures. The Commission noted that adopting rules that take security into consideration in the equipment authorization process would serve the public interest by addressing significant national security risks that had been identified, and would be consistent with the Commission's statutory ''purpose of regulating interstate and foreign commerce in communications by wire and radio . . . for the purpose of the national defense [and] for the purpose of promoting safety of life and property.'' It tentatively concluded that the Commission has the authority to prohibit authorization of equipment on the Covered List, pointing to section 302 of the Communications Act of 1934, section 303(e), and other bases, including the Communications Assistance for Law Enforcement Act (CALEA), as well as ancillary authority under section 4(i) of the Act.

NPRM on Competitive Bidding Program (EA Docket No. 21–233). The Commission uses competitive bidding (*i.e.,* auctions) to determine which among multiple applicants with mutually exclusive applications for a license may file a full application for the license. Pursuant to this authority, the Commission has required each applicant that participates in competitive bidding to make various certifications. These required certifications address a range of public interest concerns related to the conduct of competitive bidding and the national security interest in precluding some parties from obtaining licenses through competitive bidding. Parties unable to make the required certifications have their applications to participate dismissed.

In the *NPRM,* the Commission sought comment on requiring any entity participating in the Commission's competitive bidding processes to certify that its bid does not and will not rely on financial support from any entity that the Commission has designated, under § 54.9 of its rules, as a national security threat to the integrity of communications networks or the communications supply chain. Under those existing rules, Huawei and ZTE and their parents, affiliates, and subsidiaries have been so designated.

NOI on Equipment Authorization Program (ET Docket No. 21–232). In the *NOI,* the Commission sought broad comment on other possible actions the Commission could take to create incentives in equipment authorization processes for improved trust through the adoption of cybersecurity best practices in consumer devices.

The Secure Equipment Act of 2021. On November 11, 2021, subsequent to the Commission's adoption of the NPRM and NOI, the President signed and enacted into law the Secure Equipment Act of 2021 (Secure Equipment Act). This Act specifically concerns the Commission's equipment authorization program in the instant proceeding (ET Docket No. 21–232), in which the Commission has proposed prohibiting future authorizations of equipment on the Commission's Covered List published under section 2(a) of the Secure Networks Act. In section 2(a)(1), the Secure Equipment Act provides that, not later than one year after the date of its enactment, the Commission ''shall adopt rules'' in the [instant] proceeding.''

Discussion

In this proceeding, the Commission builds upon ongoing efforts by Congress, the Executive Branch, and the Commission to protect our nation's networks and supply chains from equipment and services that pose an unacceptable risk to national security or the safety of U.S. persons. Consistent with the Commission's proposals in the *NPRM* (ET Docket No. 21–232), the Commission implements several revisions to the Commission's equipment authorization program to prohibit authorization of ''covered'' equipment identified on the Commission's Covered List in order to protect our nation's communications systems from equipment that has been determined to pose an unacceptable risk. The Commission's actions in this proceeding fulfill Congress's mandate that the Commission adopt such rules within one year of enactment of the Secure Equipment Act of 2021. They also lay the foundation for future actions by the Commission to implement prohibitions in the equipment authorization program that will serve to protect the American people.

The Commission first finds that it has clear legal authority, as underscored by the Secure Equipment Act, for modifying the Commission's equipment authorization program to prohibit authorization of ''covered'' equipment identified on the Commission's Covered List. The Commission then discusses several rule revisions that it's adopting in the equipment authorization program (administered under part 2 of the Commission's rules) that will serve to prohibit the authorization of ''covered'' equipment, whether that equipment is listed on the current Covered List or is listed subsequently on an updated Covered List based on any future determinations made by our nation's national security agencies. The Commission also discusses the Covered

List, including the statutory framework associated with the list, the ''covered'' equipment on the current Covered List that the Commission is prohibiting from authorization, and how additional ''covered'' equipment identified in future updates to the Covered List will be prohibited from authorization under the Commission's equipment authorization program. Finally, the Commission addresses other issues raised by commenters (*e.g.,* cost-effectiveness and constitutional claims), as well as provide an overview of the Commission's anticipated outreach efforts to inform manufacturers, industry, other interested parties, and the public that will be affected by the actions to protect the American public through elimination from the United States' equipment supply chain of equipment that poses an unacceptable risk to national security.

A. Legal Authority To Address Security Concerns Through the Equipment Authorization Program

The Commission finds that it has authority to adopt the proposals in the *NPRM* with regard to prohibiting authorization of ''covered'' equipment on the Covered List. The Commission reaches this determination based on two grounds.

First, the Commission finds that the Secure Equipment Act provides the Commission with express authority to adopt rules that prohibit the review or approval of any application for equipment authorization for equipment that is listed on the Commission's Covered List and requires the Commission to act. Section 2(a)(1) of the Secure Equipment Act expressly states that, no later than one year after its enactment, the Commission shall adopt rules in the instant proceeding to do so. By determining here—as specified in more detail below—that the agency will no longer review or approve any equipment authorization for equipment that is on the Commission's Covered List, the Commission is acting based on the clear and express statutory language contained in section 2(a)(1) of the Secure Equipment Act. Thus, the Commission has legal authority to adopt those rules.

Second, the Commission has legal authority to take the relevant equipment authorization actions to prohibit authorization of ''covered'' equipment specified in the Report and Order (as well as with regard to revocation of authorizations discussed below) based on the agency's statutory authority that predates Congress's 2021 enactment of the Secure Equipment Act. Before that enactment, the Commission's *NPRM* in this proceeding relied on a number of preexisting statutory provisions to support this view. The Commission continues to believe, as noted in the *NPRM,* that section 302 of the Communications Act provides additional authority to adopt the rule and procedure changes proposed in the *NPRM.* The directive in section 302 to, ''consistent with the public interest, convenience, and necessity, make reasonable regulations . . . governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications,'' gives the Commission authority to implement other statutory responsibilities. And the inclusion of the phrase ''public interest'' in section 302(a) provides independent authority to take into account, in the Commission's consideration of the public interest, the national defense, and the promotion of safety of life and property, goals which must inform the Commission's exercise of its statutory responsibilities. As explained extensively in the Report and Order, prohibiting authorization of equipment that has been placed on the Covered List is essential to the national defense and to the promotion of public safety. It is well-established that the promotion of national security is consistent with the public interest and part of the purpose for which the Commission was created. As section 1 of the Act states, the Commission was created ''for the purpose of the national defense [and] for the purpose of promoting safety of life and property through the use of wire and radio communication . . . .'' And as the Supreme Court has instructed, the Commission does not read any ''particular statutory provision in isolation,'' but rather ''in [its] context and with a view to [its] place in the overall statutory scheme.''

In this regard, as further noted in the *NPRM* issued prior to the Secure Equipment Act, the Commission's statutory authority also included the authority under § 303(e) of the Communications Act to ''[r]egulate the kind of apparatus to be used with respect to ''its external effects'' (among other things). Further, as suggested in the *NPRM,* section 105 of the Communications Assistance for Law Enforcement Act (CALEA) supports the Commission's authority to prescribe the rules that the Commission adopted in the Report and Order. That section requires telecommunications carriers to ensure that the surveillance capabilities built into their networks ''can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier acting in accordance with regulations prescribed by the Commission,'' and the Commission has concluded that its rule prohibiting the authorization of equipment on the Covered List that poses a national security threat implements that provision. The Commission is required to prescribe rules necessary to implement CALEA's requirements, and the Commission concludes that the rules it implements here will help ensure that equipment that carriers include in their networks will not include such unlawful interception capabilities because use of equipment from companies that are identified by Congress and national security agencies to pose a national security threat is far more likely to be subject to unauthorized access. Finally, as noted in the *NPRM,* the Commission has ancillary authority to implement these statutory provisions by adopting such rules ''as may be necessary in the execution of [these foregoing Commission] functions.''

The Commission's reading of its pre-existing authority is confirmed by Congress's enactment of the Secure Equipment Act. By specifying both this proceeding, by its docket number, in referring expressly to ''the Notice of Proposed Rulemaking'' pending before the Commission, and by directing the Commission to ''clarify'' that it would no longer review or approve any application for equipment that is on the Covered List, Congress clearly intended to ratify the Commission's tentative conclusions in the *NPRM* that it had authority as discussed therein.

For all these reasons, the Commission now determines that it has the requisite legal authority to take these actions. Indeed, the argument to the contrary can be summarized as follows: even though the Commission has authority to approve equipment for use in the United States, the Commission has no statutory discretion to determine not to authorize that equipment in the event that a national security agency determines that the equipment poses an unacceptable risk to our national security. The Commission rejects the argument that the foregoing collective sources of statutory authority—in the absence of the Secure Equipment Act—would have deprived the Commission of such discretion. And Congress expressly endorsed this view in the Secure Networks Act.

B. Revisions to the Equipment Authorization Program

In the *NPRM,* the Commission proposed to adopt revisions to its equipment authorization rules and processes to prohibit authorization of ''covered'' equipment on the Covered List. The Commission proposed or sought comment on several potential revisions to various rule provisions related to the equipment authorization processes that would implement the proposed prohibition on authorization of equipment on the Covered List. In particular, the Commission proposed or sought comment on revisions to the Commission's general part 2 rules and to specific provisions relating to authorization of equipment processed through the Commission's equipment certification and SDoC processes. The Commission notes at the outset that the Commission received numerous comments in support of its general objectives in proposing rules prohibiting authorization of equipment on the Covered List. Several of these and other commenters also offer particular views on how the Commission should implement the prohibition, and some oppose significant elements of the proposal. The Commission addresses the particular issues raised by commenters, below.

1. General Provisions

In the *NPRM,* the Commission proposed to adopt, in the ''General Provisions'' section of its part 2, subpart J rules, a general prohibition of authorization of ''covered'' equipment identified on the Covered List. In particular, the Commission proposed to add new § 2.903 to clearly establish that the equipment on the Covered List—whether subject to the certification process or the SDoC process—would be prohibited from obtaining a Commission equipment authorization. The Commission sought comment on the proposal and whether modifications or clarifications of the proposed new rule were needed. In response, the Commission received one comment expressing general support and one of general opposition, largely arguing that the Commission lacks the authority to enact such a prohibition. As discussed in the Report and Order, Congress, through the Secure Equipment Act, directed the Commission to adopt rules, no later than November 11, 2022, to clarify that it would no longer review or approve any application for authorization of equipment on the Covered List. The Commission thus has an explicit statutory mandate to adopt such rules.

In accordance with the direction provided by the Secure Equipment Act, the Commission adopted new rule 2.903 in subpart J of the Commission's part 2 equipment authorization rules. This general prohibition makes clear that ''covered'' equipment identified on the Covered List will no longer be eligible for either of the two Commission equipment authorization procedures—certification or SDoC. In accordance with section 2(d) of the Secure Networks Act, the prohibition will extend to any communications equipment that is included in an updated Covered List in the future, and will no longer extend to any communications equipment that is removed from the Covered List. As discussed further in the Report and Order, this new provision also serves to prohibit marketing such equipment under subpart I of the Commission's rules and importation of such equipment under subpart K.

The Commission also includes within this new rule, additional general provisions associated with implementation of this prohibition in the Commission's equipment authorization program under part 2. These provisions include definitions to be used in connection with the Covered List (*e.g.,* ''subsidiary'' and ''affiliate''), as well the requirement that OET and PSHSB publish and maintain on the Commission's website information concerning on what constitutes ''covered'' equipment for purposes of implementing the prohibition on authorization of ''covered'' equipment.

2. Certification Rules and Procedures

In the *NPRM,* the Commission proposed several revisions to various rules and procedures concerning the certification of equipment, and sought comment on other potential revisions, in order to ensure that equipment on the Covered List would no longer receive equipment authorization. The Commission noted that its intent is to revise the equipment authorization process in a way that efficiently and effectively prohibits authorization of ''covered'' equipment without delaying the authorization of innovative new equipment that benefits Americans' lives. Thus, the Commission sought comment on ''[w]hat information may be pertinent to assist the TCBs and the Commission in ensuring'' against equipment authorization for such ''covered'' equipment, and on revisions to its rules that could better ensure compliance with those new requirements.

As explained in the *NPRM,* the equipment certification procedures apply to certain radiofrequency devices that have the greatest potential to cause harmful interference to radio services. Certification generally is required for equipment that consists of radio transmitters as well as some unintentional radiators. Examples of equipment that requires certification include wireless provider base stations, mobile phones, point-to-point and point-to-multipoint microwave stations, land mobile, maritime and aviation radios, wireless medical telemetry transmitters, Wi-Fi access points and routers, home cable set-top boxes with Wi-Fi, and most wireless consumer equipment (*e.g.,* tablets, smartwatches, and smart home automation devices).

Applicants for equipment certification are required to file their applications, which must include certain specified information, with an FCC-recognized Telecommunications Certification Body (TCB). The Commission, through its Office of Engineering and Technology (OET), oversees the certification process, and provides guidance to applicants, TCBs, and test labs with regard to required testing and other information associated with certification procedures and processes, including correspondence and pre-approval guidance provided via OET's knowledge database system (KDB). Each applicant must provide the TCB with all pertinent information as required by the Commission's rules, including documentation that addresses compliance with the testing requirements that broadly apply to RF devices, specific technical requirements in particular service rules, and other applicable policy-related Commission requirements. The TCB then evaluates the submitted documentation and test data to determine whether the device complies with the relevant Commission rules. Once a TCB grants an application, information about that authorization is publicly announced ''in a timely manner'' through posting on the Commission-maintained equipment authorization system (EAS) database, and referenced via unique FCC identifier (FCC ID). Certified equipment also is subject to various other requirements, including rules for modifying the equipment, marketing the equipment, and changing or transferring ownership of the associated FCC ID.

The Commission's goal is to revise the equipment authorization process in a way that efficiently and effectively prohibits authorization of covered equipment without delaying the authorization of innovative new equipment that benefits Americans' lives. In the *NPRM,* the Commission proposed and sought comment on a

requirement for each applicant for certification to make an attestation that the equipment is not ''covered'' equipment on the Covered List. It also asked whether the applicant should be required to provide specific additional information that would help establish that the equipment is not ''covered.'' In addition, the Commission proposed that the party responsible for ensuring that equipment complies with applicable requirements be located within the United States and that the application for certification include relevant contact and address information.

Attestation requirement. In the *NPRM,* the Commission specifically proposed to add a new provision to § 2.911 that would require applicants for certification to provide a written and signed attestation that, as of the date of the filing of the application, the equipment is not ''covered'' equipment produced by entities identified on the Covered List. The Commission proposed, further, that this attestation would encompass an attestation that no equipment, including any ''component part,'' is comprised of ''covered'' equipment. The Commission sought comment on whether such an attestation would be sufficient to implement the prohibition against authorization of covered equipment, the exact wording of the attestation, and the applicant's responsibility related to any changes in the Covered List. In addition, the Commission asked whether it should require the applicant to provide, under § 2.1033, additional information (possibly including a ''parts'' list) that could help establish that the equipment is not ''covered'' in order to assist TCBs and the Commission in ensuring that applicants do not seek certification of ''covered'' equipment. Finally, in the *NPRM,* the Commission proposed to direct OET, working with other bureaus and offices across the Commission (including PSHSB, WCB, IB, and EB), to develop pre-approval guidance or other guidance for applicants and TCBs in order to implement the prohibition on authorization of ''covered'' equipment.

The Commission adopted a general attestation requirement in the form of a written and signed certification that the equipment is not prohibited from receiving an equipment authorization pursuant to new § 2.903. Specifically, the Commission revises § 2.911 to include a requirement that each applicant for equipment authorization in the certification process expressly provide a written and signed certification that, as of the date the applicant submits the required information to a TCB, the subject equipment is not prohibited from receiving an equipment authorization pursuant to § 2.903.

The Commission also will require that each applicant indicate, as part of this certification, whether it is an entity identified on the Covered List with respect to ''covered'' equipment. The Commission notes that such entities on the Covered List could include entities specifically identified by name, as well as other associated entities, such as their subsidiaries and affiliates, and if so, then the applicant must indicate whether it is any such entity. The Commission finds that requiring submission of this additional information as part of the application for equipment certification will help ensure that prohibited ''covered'' equipment is not authorized. The rules that the Commission adopted to prohibit authorization of ''covered'' equipment rely in the first instance on the attestations by applicants at the beginning of the application process. Considering that applications for equipment certifications can be quite numerous, the Commission finds that knowing whether an applicant for equipment certification is an entity identified on the Covered List is essential to the efficient and effective administration by the Commission and the TCBs of the statutory prohibition in the Commission's equipment authorization program. The Commission agrees with Motorola that transparency concerning the subsidiary or affiliate status of an applicant is important, and this requirement will facilitate such transparency. While the Commission notes that indicating that the applicant is an entity on the Covered List does not mean that the subject equipment qualifies as ''covered'' equipment as such, such information nonetheless can potentially assist the TCBs, as well as the Commission in the oversight, and will be another feature that will be integral to ensuring that ''covered'' equipment in not authorized. In sum, the Commission finds this requirement both reasonable and justified, particularly given the national security concerns related to preventing authorization of ''covered'' equipment and the directive of Congress in the Secure Equipment Act.

The Commission notes that the Covered List must be periodically updated, which will likely result in periodic modifications as to the equipment or entities identified on the Covered List. Implementing a general attestation requirement, as opposed to a specific provision that directly relates to the equipment identified on the current Covered List, provides the flexibility for accommodating potential changes in the ''covered'' equipment on an updated Covered List. The Commission recognizes that there may be instances in which the Covered List is modified while an application for certification is pending. To ensure that the Commission adequately addresses such changes to the Covered List, the Commission adopted an additional requirement under § 2.911 specifying that, if the Covered List is modified after the date of the attestation but prior to grant of the authorization, then the applicant must provide a new written and signed certification that the subject equipment is not ''covered'' equipment identified on the Covered List as so amended.

Based on the record before us and the concerns raised, the Commission finds that any attestation that more broadly encompasses all ''component parts'' raises several issues that require additional consideration, and accordingly, the Commission seeks further comment on those issues in the Further Notice of Proposed Rulemaking in this proceeding. Thus, the Commission is not requiring, at this time, that the attestation specifically address individual component parts contained within the subject equipment, or provide any additional information in the application filed in accordance with § 2.1033.

The Commission will require that applicants for equipment certification, when attesting that their equipment is not ''covered,'' take into consideration the Commission's definitions and guidance regarding what constitutes ''covered'' equipment, as separately discussed in more detail. Several commenters note the importance of clear guidance for purposes of the attestation requirement. This guidance, which will be posted on the Commission's website, will be updated as appropriate to incorporate any further updates to the Covered List that affect ''covered'' equipment for purposes of the equipment authorization program, and will provide additional clarity regarding the requisite attestation. Attestations by each applicant that the subject equipment is not prohibited from receiving an equipment authorization must be true and accurate. As discussed below, in order to protect against abuse of the application process that relies on this attestation, the Commission also adopted new procedures for revoking equipment certifications for false statements or representations made by any applicant in its application for certification regarding ''covered'' equipment.

Agent for service of process located in the United States. In the *NPRM,* the Commission sought comment on actions

that it should take that would better ensure that equipment certification applicants and grantees comply with the requirements proposed in the *NPRM.* In particular, the Commission proposed requiring that the party responsible for compliance with the applicable requirements concerning certified equipment have a party located within the United States that would be responsible for compliance, akin to the current requirement applicable for equipment authorized through the SDoC process. The Commission also asked whether it should require the applicant for an equipment certification to identify an agent for service of process that must be located within the United States. Finally, the Commission sought comment on how much additional burden such requirements would place on the applicant and whether similar requirements should be placed on grantees of existing equipment authorizations.

The Commission continues to believe that it is important to facilitate enforcement of its rules, and the actions in this proceeding to prohibit future authorization of ''covered'' equipment that poses an unacceptable risk to national security underscore the need for effective enforcement of applicable rules associated with certified equipment. For many certified devices that are imported to and marketed in the United States, the grantees of the associated equipment authorizations are located outside of the United States. It is not always easy to communicate effectively with grantees, particularly foreign-based grantees, in order to engage in relevant inquiries, determine compliance, or even enforce the Commission's rules where appropriate. Accordingly, the Commission believes it's important to have a reliable and effective means to readily identify and contact a representative of the grantee of an FCC equipment certification.

Accordingly, in the Report and Order, the Commission adopted a requirement that each applicant for equipment certification designate a contact located in the United States for purposes of acting as its agent for service of process, regardless of whether the applicant is a domestic or foreign entity. The Commission believes that this requirement is straightforward, easy to implement, and should not place much of a burden on applicants seeking equipment authorization. However, as for the proposal to require that, for equipment certification, the party responsible for compliance be located in the United States, the Commission finds that defining specific requirements that the Commission should adopt and implementing them within its processes raises more complicated issues. Thus, the Commission further concludes that it would benefit from further consideration of these issues in the Further Notice of Proposed Rulemaking portion of this proceeding.

An agent for service of process traditionally holds the obligation to accept the service of process and other documents on behalf of the party chiefly responsible, and to swiftly and dutifully deliver them to that party. Service of process includes, but is not limited to, delivery of any correspondence, notices, orders, decisions, and requirements of administrative, legal, or judicial process related to Commission proceedings. The rule the Commission adopted reflects other well-established service of process requirements in the Commission rules.

For purposes of implementing this requirement, the Commission revises its rules to require that the applicant for equipment certification include with its application for certification a written certification identifying the agent for service of process by name, U.S. physical address, U.S. mailing address (if different), email address, and telephone number. An applicant that is located in the United States may designate itself as the agent for service of process. The attachment designating the agent for service of process must include a statement, signed by both the applicant and its designated agent for service of process, if different from the applicant, acknowledging the applicant's consent to accept service of process in the United States at the physical mailing address, U.S. mailing address (if different), and email address of its designated agent, as well as the agent's acceptance of its obligation. Requiring that the agent expressly consent to service within the United States will enable the Commission to efficiently carry out its enforcement duties, and if the grantee is foreign-based, will facilitate enforcement without the need to resort to unwieldy procedures that may otherwise apply under international law. The written certification must also include the applicant's acknowledgment that the designation of the agent must remain in effect for no less than one year after the grantee has terminated all marketing and importing of the associated certified equipment within the United States or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later. In line with existing Commission rules, service is deemed to be complete when the document is sent to the U.S. physical address, U.S. mailing address (if different), or email address of the U.S.-based agent for service of process. While, as discussed in the *NPRM,* the Commission sought comment on whether to apply such a requirement for an agent for service of process located in the United States to equipment already authorized pursuant to the certification process, the Commission declined to do so in the Report and Order unless there is a change in the name or address of the grantee or the grantee modifies the authorized equipment, as discussed immediately below.

Modification of equipment, including permissive changes. In the *NPRM,* the Commission sought comment on possible revisions to the part 2 rules to ensure that equipment users will not make modifications to existing equipment that would involve replacement with ''covered'' equipment. In particular, the Commission asked whether it should revise § 2.932 regarding modifications to equipment (*e.g.,* changes in the design, circuitry, or construction of the device) or the § 2.1043 provisions concerning changes to certified equipment, such as ''permissive changes.''

The Commission finds that, in order to fully implement the newly adopted prohibition on authorization of ''covered'' equipment the Commission must also revise § 2.932 concerning modification of equipment. A modification to authorized equipment could result in the later identification of that equipment as ''covered.'' the Commission cannot allow the continued authorization of modified equipment if, at the time of such modification, the equipment is ''covered'' equipment on the Covered List. Accordingly, the Commission adopted revisions to § 2.932 to require, similar to the revised provisions of § 2.911, that all applications or requests to modify already certified equipment include a written and signed certification that the equipment is not prohibited from receiving an equipment authorization pursuant to § 2.903. The Commission also requires an affirmative or negative statement as to whether the applicant is identified on the Covered List, as well as the written and signed certifications required under § 2.911(d)(6) regarding an agent for service of process within the U.S. Similarly, the Commission also adopted the same provisions for requests for Class II and III permissive changes pursuant to § 2.1043. The Commission finds that these revisions are sufficient to prevent modified equipment from maintaining authorization when such modifications occur at a time after which such equipment has been identified as posing

a risk and thereby appearing on the Covered List.

Requirements that grantees update certain changes following grant of certification. Considering that § 2.929 includes provisions regarding changes in the name, address, ownership, or control of the grantee of an equipment authorization, in the *NPRM,* the Commission also asked whether revisions were appropriate to that rule, consistent with the goals of this proceeding. Section 2.929 sets forth the requirements that the grantee of an equipment certification must maintain accurate, up-to-date contact information on file with the Commission: ''[w]henever there is a change in the name and/or address of the grantee of certification, notice of such change(s) shall be submitted to the Commission via the internet at *https://apps.fcc.gov/eas* within 30 days after the grantee starts using the new name and/or address.'' The grantee also must report the assignment, exchange, or certain transactions affecting the grantee (*e.g.,* transfer of control or sale to another company, mergers, and/or manufacturing rights), irrespective of whether the Commission requires a new application for certification. The current rule also permits a grantee to license or otherwise authorize a second party to manufacture the equipment. The Commission did not receive comments on updating § 2.929.

The Commission adopted revisions to § 2.929 in order to ensure that certain post-authorization changes do not result in that equipment becoming ''covered'' equipment that poses an unacceptable risk to national security. The Commission finds that certain changes in the name, address, ownership, or control of the grantee of an equipment authorization could result in previously authorized equipment being produced by an entity identified on the Covered List as producing ''covered'' equipment, thus resulting in the equipment becoming ''covered'' equipment. Accordingly, the Commission revises the requirements in § 2.929 to ensure that a grantee cannot circumvent the prohibition on authorization of equipment on the Covered List by transferring ownership or control, or licensing or otherwise authorizing a second party to manufacture the equipment associated with the grant of the equipment authorization. Specifically, the Commission revises § 2.929 to prohibit the grantee of an equipment authorization from licensing or otherwise authorizing a second party to manufacture the equipment covered by the grant of the equipment authorization if such licensing or authorization would result in the equipment falling within the scope of ''covered'' equipment. The Commission further adopted a requirement that notice of any change in the name or address of the grantee of certification, or transactions affecting the grantee (such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights), include provisions similar to the revised provisions of § 2.911. Specifically, the Commission requires that the notice include a written and signed certification that as of the date of the filing of such notice, the equipment to which the change applies is not prohibited from receiving an equipment authorization pursuant to § 2.903. The Commission also requires that the notice include an affirmative or negative statement as to whether the grantee is identified on the Covered List (*e.g.,* is subsidiary or affiliate of an entity named on the Covered List as producing ''covered'' equipment.

The Commission also revises § 2.929 to help ensure compliance with the effective service of process requirement added to § 2.1033, described above. For the same reasons that the Commission requires a U.S.-based agent for service of process for applicants, the Commission will require that the grantee maintain an agent for service of process that is located in the United States. Therefore, the Commission adds to § 2.929 the requirement that grantees must report any change to the information of the designated U.S.-based agent for service of process in updating the information on file with the Commission along with the written and signed certifications required under new § 2.911(d)(7).

Conforming edits in part 2. The Commission makes several conforming edits in the part 2 rules to reflect the requirements that the Commission adopted in the Report and Order. Several part 2 rules are revised, as appropriate to reflect that the requirements for equipment authorization now include the responsibility to comply with non-technical requirements such as the Covered List prohibitions. The Commission notes that it also adopted in § 2.1033 the provisions adopted in § 2.911(d) to clarify that the required information must be provided with the application for certification.

Other issues raised in the NPRM. In the *NPRM,* the Commission sought comment on other possible steps that it should consider that would affect its certification rules, such as actions that could be taken following grant of an equipment authorization that might be helpful in enforcing the prohibition on authorization of ''covered'' equipment. These included whether the Commission should consider adopting any post-grant review procedures following the grant of an equipment authorization, or any revisions or clarifications concerning ''post-market surveillance'' activities with respect to products that have been certified. In the few comments the Commission received on these issues, most opposed any changes, and the Commission is not at this time adopting any revisions or clarifications to the Commission's rules on these issues. The Commission does, however, think they merit further consideration, particularly now that the Commission has adopted a specific set of rules and procedures prohibiting authorization of ''covered'' equipment. Accordingly, the Commission seeks further comment in the Further Notice portion of this proceeding, requesting comment in light of the rule revisions that the Commission adopted in the Report and Order.

3. Supplier's Declaration of Conformity (SDoC) Rules and Procedures

In the *NPRM,* the Commission proposed that any equipment produced by any of the entities (or their respective subsidiaries or affiliates) that produce covered equipment, as specified on the Covered List, would no longer be authorized pursuant to the Commission's SDoC processes, and that the equipment of any of these entities would be subject to the Commission's certification process. Under this approach, responsible parties would be prohibited altogether from relying on authorization using the SDoC process with respect to any equipment produced or provided by these entities (or their respective subsidiaries or affiliates), as such equipment could not be authorized utilizing the SDoC process. The Commission sought to ensure consistent application of its prohibition on further authorization of any ''covered'' equipment by requiring a single process, the certification process, which involves more active Commission oversight than the SDoC process for equipment produced by any entity identified on the Covered List as producing ''covered'' equipment. The Commission also invited comment on the specific information that should be included in the SDoC compliance statement that would ensure that responsible parties do not use the SDoC process for equipment produced by entities identified on the Covered List as producing ''covered'' equipment.

As discussed in the *NPRM,* the SDoC procedures, which are available for specific equipment generally considered

to have reduced potential to cause harmful RF interference, permits equipment to be authorized through reliance on the responsible party's self-declaration that the equipment complies with the pertinent Commission requirements. Accordingly, the SDoC process differs significantly from the certification process, and does not involve the more active and transparent oversight of the certification process. Many devices eligible for an SDoC authorization do not contain a radio transmitter and include only digital circuitry (*e.g.,* computer peripherals; microwave ovens; industrial, scientific, and medical (ISM) equipment; switching power supplies; light-emitting diode (LED) light bulbs; radio receivers; and TV interface devices), although an SDoC authorization is also permitted for certain transmitters used in licensed services. As the Commission noted, under existing rules, the use of SDoC procedures are ''optional,'' as each responsible party for an SDOC-eligible device could choose to obtain equipment authorization using either certification or SDoC procedures.

For each particular RF device, the completion of the SDoC process signifies that the responsible party affirms that the necessary measurements have been made, or other procedures that have been found acceptable to the Commission have been completed, to ensure that the particular equipment complies with the applicable requirements. As set forth in the Commission's rules, the responsible party may be the equipment manufacturer, the assembler (if the equipment is assembled from individual component parts and the resulting system is subject to authorization), or the importer (if the equipment by itself or the assembled system is subject to authorization), or, under certain circumstances, retailers or parties performing equipment modification. For devices subject to SDoC, the information the responsible party must keep on file includes a compliance statement that lists a U.S.-based responsible party. The SDoC process is ''streamlined'' in the sense that, unlike the certification process, it does not require submission of applicable information to a Commission-recognized TCB or the use of an FCC-recognized accredited testing laboratory. However, the Commission can specifically request that a responsible party provide compliance documentation or device samples as necessary.

Prohibition on use of SDoC process for entities producing ''covered'' equipment on the Covered List. In proposing in the *NPRM* that equipment produced by any of the entities (or their respective subsidiaries or affiliates) identified on the Covered List as producing ''covered'' equipment would no longer be authorized pursuant to the Commission's SDoC process, the Commission sought to ensure consistent application of its proposed prohibition on authorization of ''covered'' equipment. The Commission contends that by shifting such equipment to the certification process, which involves more active oversight, including proactively providing guidance when working directly with TCBs prior to any equipment authorization, it would facilitate more effective post-market surveillance as appropriate. Because the Commission does not have direct involvement in the SDoC process (*e.g.,* nothing is filed with or recorded by the Commission), that process presents significant additional challenges to ensure that covered equipment that might otherwise be eligible for the SDoC process does not make its way into the U.S. market.

The Commission is not persuaded by opponents of the proposal who assert that it is unnecessarily burdensome. Entities following either the certification or the SDoC process must both prove compliance with FCC rules through testing and supporting documentation. Given that information on equipment authorized via the SDoC process is not readily transparent to the Commission, the certification process provides the Commission with the necessary oversight to ensure that the Commission is achieving the goals in this proceeding to prohibit authorization of equipment that poses an unacceptable risk, as required by the Secure Equipment Act, and will help prevent ''covered'' equipment from improper authorization through the SDoC process in the first place. The Commission finds that it is appropriate and reasonable to foreclose the SDoC process to equipment produced by any entity identified on the Covered List as producing ''covered'' equipment and require equipment authorization through the certification process. The Commission adopted as proposed a rule prohibiting any of the entities identified on the Covered List as producing ''covered'' equipment from using the SDoC process to authorize any equipment—not just ''covered'' equipment identified on the Covered List. Thus, any equipment eligible for equipment authorization that is produced by any entities so identified on the Covered List must be processed pursuant to the Commission's certification process, regardless of any Commission rule that would otherwise permit use of the SDoC process.

As explained in the *NPRM,* the Commission believes that requiring use of only one process by entities that have already been determined to produce ''covered'' equipment will serve the important goal of ensuring consistent application of the Commission's newly adopted prohibition on further authorization of any ''covered'' equipment, while also providing for more active oversight. Considering the importance of prohibiting equipment for devices that pose an unacceptable risk to national security, and that this is the Commission's first foray into implementing rules and procedures that require effective identification and prohibition of equipment that poses an unacceptable risk to national security, the Commission finds this approach at this time is consistent with the public interest. The Commission notes that, as the Commission, industry, and manufacturers gain more experience over time on the effectiveness of its SDoC procedures concerning ''covered'' equipment, the Commission may revisit this process.

Attestation requirement. In the *NPRM,* the Commission sought comment on what information should be included in the SDoC compliance statement to ensure that responsible parties do not use the SDoC process to authorize ''covered'' equipment. In the Commission's view, this compliance statement would need to be sufficiently complete to ensure that a responsible party exercises the necessary diligence to confirm that equipment that is subject to the SDoC process is not ''covered'' equipment for purposes of equipment authorization. Further, the Commission indicated that this compliance statement should be crafted in such a manner as to assist responsible parties in ensuring authorization is achieved through the appropriate process by identifying equipment produced by any entity identified on the Covered List as producing ''covered'' equipment, which can no longer be authorized through the SDoC process. This statement would also ensure that responsible parties are held accountable, by their compliance statement, for any misrepresentations or violation of the prohibition that the Commission adopted.

As the Commission did for the certification process, the Commission adopted a general attestation requirement in the form of a written and signed certification that the equipment is not produced by any entity identified on the Covered List as producing ''covered'' equipment, pursuant to § 1.50002 of the Commission's rules.

Specifically, the Commission revises § 2.938 to include a requirement that the responsible party maintain record of a written and signed certification that, as of the date of first importation or marketing, the equipment for which the responsible party maintains Supplier's Declaration of Conformity is not produced by any entity that is identified on the Covered List as producing ''covered'' equipment. The Commission finds that the existing SDoC operational framework, in which the responsible party declares that the equipment complies with the pertinent Commission requirements, in concert with an explicit attestation by each responsible party completing the SDoC process that the subject equipment is not produced by any entity identified on the Covered List as producing ''covered'' equipment, pursuant to § 1.50002 of the Commission's rules, should be sufficient to render unlikely the possibility that equipment required to be processed through the Commission's certification procedures will instead be erroneously processed under the Commission's SDoC procedure. The Commission finds that JVCKenwood's suggestions that the attestation include other considerations beyond whether the equipment is ''covered'' (*e.g.,* an attestation that the equipment was not unlawfully acquired) are beyond the scope of the Commission's proposal in this proceeding.

The required attestation by the responsible party for each device authorized under SDoC is similar to that required of applicants in the certification process. As with the attestation included in a certification application, the Commission will require a simple attestation here that the equipment is not produced by an entity identified on the Covered List as producing ''covered'' equipment, pursuant to § 1.50002 of the Commission's rules. The Commission does not believe that such a requirement will present an undue burden when weighed against the potential security risks described by Congress nor should it present any delay in authorizing equipment through the SDoC process. Such an attestation will also provide a mechanism for the Commission to, as needed, verify the origin of equipment authorized by SDoC and ensure accountability for a responsible party dealing with equipment provided by entities on the Covered List. The Commission expects that these measures will be sufficient to deter responsible parties from seeking the SDoC process for authorization of equipment on the Covered List, and the Commission will rely on the enforcement procedures to ensure compliance. The Commission notes that the current rules require that the SDoC responsible party be located within the United States, and that the party's name, address, and telephone number or internet contact information be included in the compliance information that is provided with authorized equipment, and the Commission does not alter this requirement.

Enforcement. In the NPRM, the Commission also asked several questions relating to enforcement of the SDoC prohibitions and related requirements. In this regard, the Commission noted its existing authority to request equipment samples and compliance information, and asked questions about the circumstances that would warrant Commission requests and what information would be useful in proving/disproving such compliance. The Commission received no comments or suggestions on how it should approach these issues.

As noted in the *NPRM,* the Commission already has the authority to request that the responsible party provide information regarding any equipment that has been authorized through the SDoC procedures. Accordingly, the Commission will exercise oversight, as appropriate, by requesting that the responsible party provide relevant information—*e.g.,* an equipment sample, representative data demonstrating compliance, and the compliance statement itself, including the attestation (in the form of a written and signed certification) required by this action, and any information necessary to assess the validity of that attestation—regarding any equipment that the Commission deems requires confirmation of its compliance with the rules. As with equipment authorized through the certification process, the Commission will take any available enforcement action to ensure that equipment identified on the Covered List does not receive equipment authorization and to hold accountable any entity that fails to accurately attest that any equipment for which they seek authorization is ''covered'' equipment. The Commission also will work with their federal partners to identify and block the importation of ''covered'' equipment that is placed on the Covered List and is prohibited from equipment authorization pursuant to the rules adopted in the Report and Order.

Finally, in light of the newly established SDoC rules and procedures to prohibit authorization of ''covered'' equipment, the Commission invites further comment in the Further Notice of Proposed Rulemaking on other actions the Commission should consider when carrying out its responsibilities to ensure compliance with the prohibitions on authorization of ''covered'' equipment that the Commission adopted in the Report and Order.

4. Importation and Marketing Rules

As the Commission noted in the *NPRM,* if it adopted its proposal to revise the Commission's subpart J equipment authorization rules to prohibit any further authorization of covered equipment through the certification or SDoC processes, this decision also would prohibit the marketing of such equipment under subpart I of the Commission's part 2 rules (Marketing of Radio-Frequency Devices) and importation of equipment under subpart K (Importation of Devices Capable of Causing Harmful Interference) of the part 2 rules. In the *NPRM,* the Commission sought comment on whether to revise or provide clarification with regard to how the proposal to prohibit authorizing covered equipment would affect the Commission's rules in either subpart I or subpart K. Specifically, the Commission asked whether the general prohibition it proposed for equipment subject to certification and SDoC made any changes to subparts I or K unnecessary and, if not, what changes were needed to the rules in those subparts.

The Commission affirms the conclusion that revising the general equipment authorization provisions in subpart J also effectively prohibits the marketing and importation of ''covered'' equipment prohibited from authorization under the equipment authorization program. Section 2.803(b) only permits persons to market RF devices that are subject to authorization under either the certification or SDoC process, as set forth in the Commission's subpart J rules, once those devices have been authorized, unless an exception applies. Similarly, the revisions in this proceeding to the equipment authorization process in subpart J, above, also prohibits importing or marketing of covered equipment if it is subject to authorization through either the certification or SDoC process in subpart J and has not been authorized, per §§ 2.1201(a) and 2.1204(a).

The Commission recognizes that commenters have raised points related to technical concerns and the intended use of imported equipment. However, as with the other rule revisions that the Commission adopted in the Report and

Order, the Commission focuses review of the importation and marketing rules on how they relate to addressing equipment on the Covered List in terms of equipment authorization. The Commission emphasizes that, generally under the rules, RF devices may be imported only when certain conditions are met. Many of those conditions are based on equipment authorization, with other very limited conditions based on personal use, demonstration, and other very restrictive conditions. As such, the Commission found that, there was no need to adopt revisions to the importation or marketing rules to address equipment on the Covered List because the revisions to the equipment authorization rules prohibiting any further authorization of covered equipment also serve to prohibit the importation and marketing of such equipment.

5. Exempt Equipment

As a general matter, the Commission's equipment authorization program is concerned with ensuring that RF emissions do not cause harmful interference to radio communications. However, in the *NPRM,* the Commission recognized that this proceeding involves concerns about equipment that poses an unacceptable risk to our nation's communications networks, which are distinct from the Commission's concerns related to interference to authorized radio services. Asking whether ''covered'' equipment potentially could include equipment that currently is exempt from its equipment authorization processes, the Commission sought comment on whether to reconsider whether, in order to address security concerns, providing such exemptions continues to be appropriate.

Background. The most diverse set of exempt devices operate under the Commission's part 15 unlicensed device rules. Certain unlicensed RF devices are exempt from demonstrating compliance under either of the Commission's equipment authorization procedures (certification or SDoC) because these devices generate such low levels of RF emission that they have little potential for causing harmful interference to authorized radio services, although some devices may be exempt for other reasons. In addition, certain equipment that operates within licensed services are also exempt from part 2 equipment authorization due to a variety of reasons beyond interference concerns and are not subject to the Commission's specific part 2 testing, filing, or record retention requirements. However, such devices are subject to complying with the unique operational and technical requirements associated with the particular licensed service.

In the *NPRM,* the Commission sought specific comment on whether the Commission should revise its rules to eliminate any equipment authorization exemption for ''covered'' equipment based on the potential of such equipment, regardless of RF emissions characteristics, to pose an unacceptable risk to U.S. networks or users. The Commission further sought comment on whether such a revision should apply only to exempt part 15 unlicensed devices or should include currently exempt devices that operate under other rule parts. The Commission also asked whether to require that any equipment (in whole or in part), regardless of any applicable rule exemption, that is produced by any entity that has produced ''covered'' equipment on the Covered List be processed pursuant to the Commission's certification process (similar to the proposal and the requirement that the Commission is adopting that such entities must use the certification process for equipment, even if existing rules had permitted processing through the SDoC process).

In the *NPRM,* the Commission tentatively concluded that the legal authority associated with the Commission's proposal to prohibit authorization of ''covered'' equipment in its equipment authorization process also provided, pursuant to sections 302 and 4(i) of the Act, for actions that the Commission might take with respect to precluding ''covered'' equipment from being exempted from the equipment authorization process.

Discussion. The Commission concludes that it will no longer exempt ''covered'' communications equipment, *i.e.,* equipment that has been determined to pose an unacceptable risk to national security pursuant to the Secure Networks Act, from equipment authorization requirements. Accordingly, the Commission will require that any equipment produced by any of the entities identified on the Covered List as producing ''covered'' equipment be processed through the certification process just as the Commission is requiring equipment previously subject to the SDoC procedures to be processed through the certification processes. By no longer exempting equipment produced by these entities, the Commission is taking another step to protect our nation's supply chain from new equipment that has been determined to be ''covered.''

As noted in the *NPRM,* certain RF equipment for various reasons has been exempted from the need to demonstrate compliance under the Commission's equipment authorization procedures, which are generally concerned with ensuring that devices do not cause harmful interference to authorized radio services. Also as discussed in the *NPRM,* this proceeding involves concerns about equipment that poses an unacceptable risk to our nation's communications networks, which are distinct from the Commission's concerns related to harmful interference to authorized radio services. Whether communications equipment poses an unacceptable risk to national security simply does not turn on considerations of RF interference. Nor is the Secure Networks Act or Secure Equipment Act so concerned.

The Commission concludes that certain types of equipment that is currently exempt from equipment authorization requirements and produced by entities identified on the Covered List could constitute ''covered'' equipment. Later in this document, the Commission discusses certain types of communications equipment that is ''covered'' equipment. Among other things, the Commission concludes that, for purposes of implementing the prohibition on ''covered'' equipment, such equipment includes ''access layer,'' ''distribution layer,'' and ''core layer'' equipment produced by entities identified on the Covered List and that is used in networks providing advanced communications services. Pursuant to section 5 of the Secure Networks Act, the Commission requires that advanced communications service providers report whether they have purchased, leased, rented, or otherwise obtained such ''covered'' equipment (after August 18, 2018). ''Access layer'' equipment is equipment associated with providing and controlling end-user access to the network over the ''last mile,'' ''local loop,'' or ''to the home'' (*e.g.,* optical terminal line equipment, optical distribution network devices, customer premises equipment (to the extent owned by the advanced services provider), coaxial media converters, wavelength-division multiplexing (WDM) and optical transporting networking (OTN) equipment, and wireless local area network (WLAN) equipment). ''Distribution equipment'' includes middle mile, backhaul, and radio area network (RAN) equipment (*e.g.,* routers, switches, network security equipment, WDN and OTN equipment, and small cells). ''Core layer'' equipment is associated with the backbone infrastructure (*e.g.,* optical networking equipment, WDN and OTN, microwave equipment, antennas, RAN

core, Cloud core, fiber, and data transmission equipment). Thus, to the extent that equipment currently exempt from equipment authorization procedures is produced by any entity identified on the Covered List, such equipment will no longer be eligible for such exemption and must seek authorization through the certification process, and the Commission will revise the part 15 rules to so indicate.

Similar to the Commission's decision to no longer permit these entities to avail themselves of the SDoC process, requiring all equipment they produce to undergo more rigorous scrutiny as well as complying with the attestation requirements is the best way the Commission can fulfil its statutory obligation to ensure that ''covered'' equipment is no longer able to be purchased and used, thereby protecting national security. The Commission further concludes that the measures that it's taking are consistent with long-standing legal authority (as discussed above) and are reasonable and appropriate both to prohibit authorization of ''covered'' equipment on the Covered List pursuant to the Secure Networks Act and to further comply with Congress's mandate in the Secure Equipment Act.

6. Revocation of Authorizations of ''Covered'' Equipment

In the *NPRM,* the Commission sought comment on revocation of equipment authorizations on the grounds that the equipment authorization involved ''covered'' equipment. The Commission tentatively concluded that, if it adopted new rules prohibiting authorization of ''covered'' equipment, the Commission had the authority to revoke any authorization that may have been granted after adoption of such rules based on applicants' false statements or representations that the equipment was not ''covered.'' The Commission also tentatively concluded that the current rules provide the Commission with the authority to revoke any *existing* equipment authorizations—*i.e.,* authorizations granted before adoption of rules in this proceeding prohibiting any future authorization of ''covered'' equipment—if such equipment constituted ''covered'' equipment, and sought comment on whether there are particular circumstances that would merit revocation of any specific equipment authorization(s) and, if so, the procedures that should apply (including whether to adopt possible revisions to the current procedures).

With respect to equipment authorized subsequent to adoption of proposed rules prohibiting authorization of ''covered'' equipment, the Commission tentatively concluded that § 2.939(a)(1) and (2) applied to ''covered'' equipment, such that the Commission could revoke any equipment authorization that may have been granted based on false statements or representations in the application for authorization attesting that the equipment is not ''covered.'' Under this proposed approach, the Commission would revoke any such equipment authorization granted after adoption of the rules proposed in the *NPRM,* even if the TCBs or the Commission had not acted to set the grant aside within the 30-day period following the posting of the grant on the EAS database. In addition, the Commission tentatively concluded that, pursuant to § 2.239(a)(3), if authorized equipment is subsequently changed (*e.g.,* the responsible party initiates a permissive change which changes the equipment status from not covered to ''covered'' equipment), that equipment authorization could be revoked because such a change would violate the Commission's newly adopted prohibition on authorization of ''covered'' equipment.

As for revocation of any existing equipment authorizations involving ''covered'' equipment, the Commission sought comment on whether § 2.939(a)(4), which allows revocation '[b]ecause of conditions coming to the attention of the Commission which would warrant it in refusing to grant an original application'' would provide the Commission basis for revoking equipment granted prior to adoption of the prohibition on authorization of ''covered'' equipment. In addition, the Commission tentatively concluded that if it were to adopt rules prohibiting authorization of ''covered'' equipment, then § 2.939(c), which states that the Commission ''may also withdraw any equipment authorization in the event of changes in its technical standards,'' could constitute such a change in technical standards that warrants withdrawal of the equipment authorizations.

To the extent the Commission sought to revoke any equipment authorizations, it noted the current procedures set forth in § 2.939(b), and requested comment on whether it should use these specific procedures or other procedures, and on what process the Commission could use to help identify equipment authorizations for revocation. Finally, the Commission asked whether it should make any revisions to § 2.939, including whether that section should specifically address the revocation process for ''covered'' equipment.

The Secure Equipment Act, enacted subsequent to the close of the comment period on the *NPRM,* includes specific provisions concerning the Commission's actions that concern revocation of equipment authorizations involving ''covered'' equipment. In section 2(a)(2), Congress directed the Commission to adopt new rules prohibiting authorization of ''covered'' equipment. As for revocation of existing equipment authorizations involving ''covered'' equipment, section 2(a)(3)(A) of the Act provides that ''[i]n the rules adopted'' by the statutory deadline, the Commission ''may not provide for review or revocation of any equipment authorization'' granted before the adoption date of such rules. Section 2(a)(3)(B), however, provides generally that, other than in ''the rules adopted'' by the statutory deadline, the Secure Equipment Act does not prohibit the Commission from examining the necessity of review or revocation of any equipment authorization on the basis of the equipment being on the Covered List or adopting rules providing for any such review or revocation.

In the Report and Order, the Commission did not adopt any rules providing for the review or revocation of any currently existing equipment authorization granted prior to adoption of the Report and Order. With respect to equipment authorized after adoption of the Report and Order prohibiting authorization of ''covered'' equipment, the Commission adopted streamlined revocation procedures to apply if the authorization had been granted based on false statements or representations in the applications that the equipment is not ''covered,'' or if the authorized equipment is modified or changed in such a way as to become ''covered'' equipment. In addition, the Commission concludes that it has the authority, as affirmed by Congress in the Secure Equipment Act, to consider the necessity to review or revoke an existing authorization of ''covered'' equipment approved prior to adoption of the Report and Order, and that it has such authority to consider such action without considering additional rules providing for any such review or revocation of existing authorizations.

Streamlined revocation of authorizations based on false statements or representations about ''covered'' equipment. With regard to revocation of equipment authorizations granted after adoption of rules prohibiting authorization of ''covered'' equipment, the Commission concludes, as in the *NPRM,* that the Commission already has authority, under its current rules in § 2.939(a)(1), to revoke

authorizations if the Commission discovers, post-authorization, that the application (or in materials or responses submitted in connection therewith) contained false statements or representations. The Commission notes that revoking authorizations on this basis is clearly permitted under the Secure Equipment Act, which did not proscribe adopting rules for revocation of authorizations that are granted after adoption of the Report and Order.

However, because Congress established that ''covered'' equipment poses an unacceptable risk to national security, the Commission finds that it is necessary to adopt an expedited mechanism for review and revocation of equipment authorizations that were granted after adoption of the Commission's prohibitions where the application for such authorization contained a false statement or representation regarding the ''covered'' status of such equipment at the time of such statement or representation. To that end, the Commission adopted a new provision, § 2.939(d), providing for streamlined procedures to address such situations, as discussed further below.

Nothing in the Commission's statutory authority requires that the process for revocation of equipment authorizations be conducted pursuant to existing rule § 2.939(b), *i.e.,* the revocation process generally afforded radio licensees. As the Commission noted in its 2020 order adopting streamlined procedures for certain administrative hearings, the hearing provisions in the Communications Act do not expressly require formal hearings (*e.g.,* hearings conducted with live witness testimony and cross examination and the introduction of evidence before a presiding officer). Instead, revocation proceedings generally are subject only to informal adjudication requirements under the Administrative Procedure Act, which requires that an authorization holder be given written notice of the facts or conduct which may warrant the revocation and an opportunity to demonstrate or achieve compliance with all lawful requirements. The Commission may resolve disputes of fact in an informal hearing proceeding on a written record. Thus, the Commission concludes that, going forward, where the Commission has reason to believe that an equipment authorization was granted on the basis of a false statement or representation by the applicant concerning whether the subject equipment is ''covered'' equipment, the more streamlined informal hearing procedures described below, based on a written record, will apply. However, the Commission may in its discretion determine to hold oral hearings when needed to resolve a genuine dispute as to an outcome-determinative fact, and such hearings may be limited to testimony and cross-examination necessary to resolve that dispute.

As discussed in this document above, the Commission also is prohibiting the modification of equipment if such modification would alter the equipment's status such that it would become ''covered'' equipment. In implementing this prohibition, the Commission requires that applications or requests to modify already certified equipment include a written and signed certification that the equipment is not ''covered.'' The Commission concludes that, pursuant to existing § 2.939(a)(3), the Commission already has authority to revoke an equipment authorization granted after the adoption of rules in the Report and Order if that equipment is changed in the future in such a way as to become ''covered'' equipment. Again, because ''covered'' equipment poses an unacceptable risk to national security, the Commission also will include within the streamlined procedures the authority to revoke equipment authorization in which equipment is changed in such a way that it becomes ''covered'' equipment where the application or request for modification is found to include false statements or representations that the equipment is not ''covered.''

Streamlined procedures. In cases in which OET and PSHSB, working with other Bureaus/Offices as may be appropriate, have reason to believe that a particular equipment authorization or modification of an equipment authorization granted after adoption of the rules in the Report and Order was or may have been based on a false statement or representation made by an applicant, either in the application or in the materials connected therewith, regarding the required attestations under revised § 2.911 concerning whether the equipment was ''covered'' or whether the applicant is an entity identified on the Covered List, OET and PSHSB will investigate whether such authorization was improperly granted or otherwise should be revoked. OET and PSHSB will provide written notice to the equipment authorization holder of the initiation of a revocation proceeding and the grounds under consideration for such revocation. As discussed above, the Commission is requiring that applicants for equipment authorization make certain attestations under § 2.911 regarding the subject equipment in the context of ''covered'' equipment. False statements or representations with respect to the application under this section provide grounds for revocation of the authorization pursuant to § 2.939(a)(1).

The Commission will model this procedure along lines consistent with section 558 of the Administrative Procedure Act. OET and PSHSB will issue an order to show cause why revocation proceedings should not be initiated, which order will provide notice of the facts or conduct which may warrant revocation, and an opportunity to demonstrate or achieve compliance. The equipment authorization holder will have 10 days thereafter to provide a written submission responding to the notice of proposed revocation. After reviewing the record and any supplemental information requested by OET and PSHSB, if they find that the equipment is ''covered'' or that the applicant did not disclose that it was an entity identified on the Covered List, they will initiate revocation proceedings, providing the basis for such decision. The Commission notes that the determination as to whether to revoke an authorization focuses on whether the attestation was true, and it does not require any finding that the applicant has the specific intent to make a false statement or representation. In the event of revocation of an equipment authorization, OET and PSHSB will issue an order explaining its reasons as well as how such revocation will be implemented (*e.g.,* halting distribution, marketing, and sales of such equipment, requiring other appropriate actions) and enforced.

Revocation of existing equipment authorizations on grounds that the equipment is ''covered'' equipment. The Commission also concludes that it has the requisite authority under the Communications Act to review any existing equipment authorization that would, under the rules that the Commission adopted in the Report and Order, be ''covered'' equipment, and to determine the necessity for revoking such authorization, and that the Commission can undertake such revocation pursuant to current rules. The Commission reaches this determination based on the reading of the Commission's existing authorities. Pursuant to the same authorities discussed above with respect to the equipment authorization program, the Commission has long relied on its authority (modelled along the lines of section 312 of the Communications Act with respect to spectrum licensees) to revoke equipment authorizations under § 2.939(a)(4) ''[b]ecause of conditions

coming to the attention of the Commission which would warrant it in refusing to grant an original application.'' The Commission concludes that it is well within its responsibilities and mandate, as IPVM has suggested, to revoke an existing equipment authorization under § 2.939(a)(4).

That the Commission has such authority to revoke is confirmed by the Secure Equipment Act. Indeed, as a matter of statutory structure, the Secure Equipment Act can be read as saying two complementary things: one, that the Commission has no discretion with respect to reviewing or approving requests for equipment authorization for equipment listed on the Covered List (as discussed above) after the Report and Order—*i.e.,* the Secure Equipment Act requires that the Commission no longer review or approve them; and two, that the Commission does have discretion (''other than in the rules adopted'' here) to exercise its statutory authority to decide whether to take equipment authorization action regarding authorizations granted prior to the Commission's decision.

First, in sections 2(a)(1) and 2(a)(2), Congress determined that the Commission shall adopt rules that clarify—on a going forward basis—that the Commission will no longer review or approve equipment that is on the Covered List. This is reinforced by Congress's inclusion of section 2(a)(3)(A), which specifically states that ''[i]n the rules adopted under paragraph [2(a)](1),'' *i.e.,* the rules the Commission adopted in the Report and Order, ''the Commission may not provide for review or revocation of any equipment authorization granted before the date on which such rules are adopted on the basis of the equipment being on the [Covered List].'' Read together, sections 2(a)(1), 2(a)(2), and 2(a)(3)(A) state that, with respect to the scope of the Commission's section 2(a)(2) rules, those rules shall not provide for the review or revocation of existing authorizations. Second, in section 2(a)(3)(B), Congress made clear that the Commission could use its existing authority to adopt non-section 2(a)(2) rules or otherwise examine the necessity of providing for the review or revocation of equipment authorizations granted before any section 2(a)(2) rules—even in cases where the sole basis for the Commission's equipment authorization action in those circumstances is the equipment being included on the Covered List.

Thus, with regard to the Commission's discretion under the Secure Equipment Act, with regard to new equipment authorizations going forward, Congress has taken the discretion out of the Commission's hands and directed us to stop reviewing or approving applications involving ''covered'' equipment. Congress has exercised its authority to draw a bright and clear line. As for existing equipment authorizations, Congress has preserved the Commission's existing authority—and the discretion that comes with the exercise of that authority—to decide whether the Commission should take action based on equipment being added to the Covered List.

Finally, the Commission noted that it's making no decision in the Report and Order as to whether any particular existing equipment authorization should be revoked. Whether and to what extent and pursuant to what processes the Commission exercises that authority would be based on several considerations, including the public interest and an assessment of the costs and benefits of any such action. As noted above, the procedures for revoking authorizations that would be applicable to authorization(s) granted before adoption of these rules are set forth in § 2.939(b). In the Further Notice of Proposed Rulemaking in this proceeding, the Commission explores streamlining these procedures and seeks comment on other issues relating to revocation.

C. ''Covered'' Equipment

In the *NPRM,* the Commission proposed revisions to its equipment authorization rules and procedures under part 2 to prohibit authorization of any ''covered'' equipment that is identified on the Covered List published by PSHSB. As noted, this Covered List identifies certain equipment that, to date, has been determined—pursuant to the Secure Networks Act—to be communications equipment that poses an unacceptable risk to national security and safety of U.S. persons. Equipment is on the Covered List only if one of four enumerated sources determines such equipment ''poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.'' As future determinations are made by these four enumerated sources about ''covered'' equipment, PSHSB will update the Covered List to reflect those determinations.

In the *NPRM,* the Commission proposed and sought comment on how to identify and address particular ''covered'' equipment that would no longer be permitted to obtain equipment authorizations. Comments on the scope of what constitutes ''covered'' equipment vary widely (as discussed in detail below). Several commenters ask for Commission clarification of what constitutes ''covered'' equipment for the purposes of the instant proceeding. The Commission agrees that sufficient clarity is needed to provide guidance for purposes of administering the prohibition on authorization of ''covered'' equipment in the Commission's equipment authorization program pursuant to the part 2 rules. As discussed in the *NPRM,* the Commission's efforts to revise its equipment authorization program rules to prohibit authorization of ''covered'' equipment is one of several different efforts by the Commission, as well as various federal agencies, including those pursuant to the Secure Networks Act and section 889 of the 2019 NDAA, to identify and prohibit the use of ''covered'' equipment that poses an unacceptable risk to national security. Several commenters, including industry associations, express concern that the Commission not take actions in the instant proceeding that would create confusion or conflict with other Commission actions (*e.g.,* the Commission's Reimbursement Program), and otherwise stress the importance that the Commission work with other federal agencies on these concerns.

Below, the Commission discusses what constitutes ''covered'' equipment for purposes of the Secure Networks Act, as implemented by the Commission and placed on the Covered List, and the Secure Equipment Act. This includes discussion of the equipment that already has been included on the Covered List to date, specifically ''telecommunications equipment'' and ''video surveillance equipment'' produced by five named entities—Huawei, ZTE, Hytera, Hikvision, and Dahua—pursuant to the Secure Networks Act and the determination made by Congress in § 889(f)(3) of the 2019 NDAA. For purposes of implementing the prohibition of the authorization of such equipment in the Commission's equipment authorization process, the Commission provides guidance on the scope of ''covered'' equipment. Because the equipment placed on the Covered List is expected to evolve over time based on new determinations concerning equipment made outside of the Commission, the Commission also discusses how any future such determinations will be addressed with respect to prohibiting authorizations of ''covered'' equipment in the Commission's equipment authorization program.

1. Current ''Covered'' Equipment on the Covered List

In the *NPRM,* the Commission proposed revisions to its equipment authorization rules and procedures under part 2 to prohibit authorization of any ''covered'' equipment that is identified on the Covered List published by PSHSB. At the time that the *NPRM* was adopted in June 2021, the only *equipment* on the Covered List, published pursuant to section 2(c) of the Secure Networks Act, was based on the determination under section 2(c)(3) of that Act, namely Congress's determination under section 889(f)(3) of the 2019 NDAA concerning equipment produced by five entities—Huawei, ZTE, Hytera, Hikvision, and Dahua (and their respective affiliates and subsidiaries). The Commission notes that, although PSHSB updated the Covered List in March 2022 and in September 2022 to include additional ''covered'' services and products, the list regarding ''covered'' equipment has not been updated or otherwise revised. Accordingly, the Commission discusses the ''covered'' equipment with respect to these same five entities below, the same equipment on the Covered List as discussed in the *NPRM.*

As the Secure Networks Act makes clear, ''covered'' equipment only includes equipment determined by any of the four enumerated sources to pose an unacceptable risk. The Commission has affirmed this in the instant proceeding as it has in earlier decisions by the Commission. Accordingly, the Commission disagrees with any assertion by commenters that the Commission should prohibit authorization of any equipment that has not been determined to pose an unacceptable risk by the four enumerated sources and placed on the Covered List.

In the *NPRM,* the Commission proposed that OET, with assistance from bureaus across the agency (including PSHSB, WCB, WTB, IB, and EB), develop necessary guidance for use by all interested parties—including applicants and TCBs that help administer the equipment authorization program—as the Commission implements the proposed prohibition on future authorizations of ''covered'' equipment. The Commission first discusses what, in the first instance, is ''covered'' equipment on the current Covered List for purposes of the prohibition in the equipment authorization program. The Commission then provides further guidance on the types of equipment that will be included with regard to implementing and administering the Commission's prohibition of future authorizations of ''covered'' equipment under the revised equipment authorization program rules that the Commission adopted in the Report and Order.

''*Covered*'' *equipment produced by Huawei and ZTE.* As proposed in the *NPRM,* the Commission will prohibit from equipment authorization all equipment produced by Huawei and ZTE (as well as their subsidiaries and affiliates) that is on the Covered List. As identified pursuant to the Secure Networks Act and Congress's determination under section 889(f)(3) of the 2019 NDAA, such equipment includes both ''telecommunications equipment'' and ''video surveillance equipment'' produced by these two entities (and their subsidiaries and affiliates). Specifically, Congress defines ''covered telecommunications equipment or services'' in section 889(f)(3)(A) as ''telecommunications equipment'' produced by Huawei and ZTE, and in section 889(f)(3)(C) Congress included ''telecommunications or video surveillance services provided'' by Huawei or ZTE ''or using such *equipment* (emphasis added).'' Combining the equipment identified by Congress in sections 889(f)(3)(A) and (C), the Covered List published by PSHSB states that ''covered'' equipment under the Secure Networks Act includes ''[t]elecommunications equipment'' produced or provided by Huawei or ZTE, ''including telecommunications or video surveillance services produced or provided by such entity using such equipment.'' The Commission was required to place this equipment on the Covered List, and had no discretion not to do so. As the Commission has explained, the Secure Networks Act requires the Commission to accept and incorporate on the Covered List the determinations as provided, and should interested parties seek to reverse or modify the scope of one of these determinations, the party should petition the source of the determination. The Commission further notes that the Congress in the Secure Equipment Act, with its direct reference to this rulemaking, in which the Commission expressly proposed to prohibit authorization of the ''telecommunications equipment'' and ''video surveillance equipment'' specified on the Covered List, endorsed inclusion of this equipment on the Covered List as equipment that must not be authorized by the Commission.

In addition, as explained in the *Supply Chain 2nd R&O* and *Supply Chain 3rd R&O,* the Commission need not make any Secure Networks Act section2(b)(2) ''capability'' assessment of the Huawei or ZTE equipment, under either section 2(b)(2)(A) or (B) of the Secure Networks Act, since, in effect, the Commission finds that Congress under section 889(f)(3) of the 2019 NDAA has made that capability determination regarding this equipment, *i.e.,* that it ''otherwise pos[es] an unacceptable risk'' to national security, pursuant to section 2(b)(2)(C). Thus, for purposes of the prohibition that the Commission is adopting in this proceeding, ''covered'' equipment includes ''telecommunications equipment'' and ''video surveillance equipment'' produced by Huawei and ZTE.

The Commission provided additional guidance and explanation about what equipment constitutes covered ''telecommunications equipment'' and ''video surveillance equipment'' for purposes of the prohibition on such equipment authorization.

''*Covered*'' *equipment produced by Hytera, Hikvision, and Dahua.* The Commission first addresses the various arguments regarding whether ''telecommunications equipment'' and ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua falls within the scope of ''covered'' equipment under the Secure Networks Act section 2(c)(3) and the determination by Congress under section 889(f)(3)(B) and (C) of the 2019 NDAA concerning those companies' equipment, and belongs on the Covered List. In its decision, the Commission explains that their ''telecommunications equipment'' and ''video surveillance equipment'' was previously determined to be ''covered'' and has accordingly been placed on the Covered List. The Commission then addresses the extent to which the Commission can, through its equipment authorization program, prohibit authorization of any of the ''video surveillance equipment and telecommunications equipment'' produced by these companies (or their respective subsidiaries and affiliates). The Commission concludes that it will prohibit in the equipment authorization program authorization of such equipment produced by Hytera, Hikvision, and Dahua ''for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.''

The Commission notes that while this section focuses on the overall scope of what constitutes ''covered'' equipment on the Covered List, the Commission provides further guidance regarding what types of equipment constitutes ''telecommunications equipment'' and

''video surveillance equipment'' that will be prohibited from obtaining authorization under the Commission's equipment authorization program.

''*Covered*'' *equipment includes certain* ''*video surveillance and telecommunications equipment*'' *produced Hytera, Hikvision, and Dahua.* Hytera, Hikvision, and Dahua each contend that the Secure Networks Act requires that the Commission's Covered List now remove listing their ''video surveillance and telecommunications equipment'' as ''covered,'' and that in any event the Commission should now preclude their equipment from being deemed ''covered'' and not prohibit authorization of that equipment in the instant proceeding. Following review of the extensive arguments presented by Hytera, Hikvision, and Dahua representatives, the Commission rejects their contentions that the equipment that they produce cannot constitute covered communications equipment under the Secure Networks Act and section 889(f)(3) of the 2019 NDAA, and that it does not belong on the Commission's Covered List. Accordingly, the Commission rejects arguments by these companies that the Commission now should remove ''video surveillance and telecommunications equipment'' produced by these entities (or their subsidiaries or affiliates) from the Covered List.

First, in the Secure Networks Act section 2(c)(3) and section 889(f)(3) of the 2019 NDAA, Congress identified as covered communications equipment ''video surveillance and telecommunications equipment'' produced by these entities (and any of their subsidiaries or affiliates). The Commission notes that in its 2020 decision in the *Supply Chain 2nd R&O,* the Commission already concluded that, pursuant to the Secure Networks Act and its incorporation of section 889(f)(3) of the 2019 NDAA, ''telecommunications equipment'' and ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua is ''covered'' communications equipment under the Secure Networks Act, and, as a result, PSHSB properly placed this equipment on the Covered List when it first published the list in March 2021. Accordingly, the Commission rejects arguments by these companies that the Commission now should remove inclusion of ''video surveillance and telecommunications equipment'' produced by these entities (or their subsidiaries or affiliates) from the Covered List.

The Secure Networks Act expressly provides in section 2(c) that the Commission must place on the Covered List any communications equipment that poses an unacceptable risk to the national security or the security and safety of United States persons ''based solely on one or more'' of the determinations made by four enumerated sources specified in the Act. Specifically, one of those determinations, set forth in section 2(c)(3) of the Secure Networks Act, provides the following determination relating to communications equipment posing an unacceptable risk: ''[t]he communications equipment or service being covered telecommunications equipment or services, as defined in section 889(f)(3)'' of the 2019 NDAA. In turn, section 889(f)(3), which was enacted prior to the Secure Networks Act, provides that ''[c]overed telecommunications equipment or services'' includes ''telecommunications equipment'' and ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua, per section 889(f)(3)(B), as well as ''[t]elecommunications or video surveillance services provided by such entities or *using such equipment,*'' per section 889(f)(3)(C) (emphasis added). Given these two subsections of section 889(f)(3), Congress in the Secure Networks Act has identified as ''covered'' equipment both ''telecommunications equipment'' and ''video surveillance equipment'' produced by these entities or used in the provision of video surveillance or telecommunications services; prior to inclusion of section 889(f)(3) in Secure Networks Act section 2(c)(3), this equipment was subject only to the executive branch's prohibitions of procurement under section 889 of the earlier enacted NDAA because such equipment can pose an unacceptable risk to national security. To remove ''telecommunications equipment'' and ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua from the Covered List, as their representatives request, would ignore Congressional intent regarding its recognition and determination that use of such equipment can pose an unacceptable risk to national security. In the Commission's view, Congress identified this equipment as posing an unacceptable risk, and the Commission is not in a position to question that or not include it on the Covered List. Furthermore, Congress passed the Secure Equipment Act in response to the instant Commission proceeding and the then-current Covered List, and Congress expressly mandated that the Commission prohibit authorization of equipment on the Covered List as it had proposed to do in the *NPRM* in this proceeding. Congress therefore intended the prohibition that the Secure Equipment Act requires the Commission to adopt to include the telecommunications equipment and the video surveillance equipment that already was on the Covered List. Given the Commission's conclusion here that the arguments of Hytera, Hikvision, and Dahua representatives fail on the merits, the Commission need not address Motorola's contention that their arguments must be denied on the basis of the Hobbs Act.

The Commission disagrees with the assertions that telecommunications and video surveillance equipment produced by Hytera, Hikvision, and Dahua are not ''covered'' because their respective equipment does not meet the ''capability'' requirements under section 2(b) of the Secure Networks Act either with respect to being capable of routing or redirecting user data traffic or permitting visibility into any user data or packets or causing the network to be disrupted remotely. As discussed above, the Commission already has concluded in both the *Supply Chain 2nd R&O* and the *Supply Chain 3rd R&O* that the Commission need not make any Secure Networks Act section 2(b)(2) ''capability'' assessment regarding Hytera, Hikvision, or Dahua equipment, under either section 2(b)(2)(A) or (B) of the Secure Networks Act, since, in effect, Congress under section 889(f)(3) of the 2019 NDAA has made that capability determination pursuant to section 2(b)(2)(C), concluding that video surveillance and telecommunications equipment produced by these entities is ''covered'' equipment insofar as Congress has determined that it is capable of ''otherwise posing an unacceptable risk'' to national security. This decision is further supported by the Commission's discussion of a section 2(b)(2)(C) determination in the *Supply Chain 2nd R&O.* It noted that if an enumerated source in its determination indicates that a specific piece of equipment or service poses an unacceptable risk to the national security of the United States and the security and safety of United States persons, the Commission need not conduct an analysis of the capabilities of the equipment and instead will automatically include this determination on the Covered List. Congress, the enumerated source with regard to determinations about this equipment, has already performed the analysis on whether the equipment—such as video surveillance equipment specifically identified under section

889(f)(3)(B) and (C)—poses an unacceptable risk to the national security of the United States or the security and safety of United States persons as part of its determination. For these reasons as well, the Commission also disagrees with PowerTrunk insofar as it opposes the Commission's adoption of a prohibition on future authorizations of any ''covered'' equipment that it produces. Regardless of whether PowerTrunk may have been permitted in 2018 for use by certain public safety entities, the issue before us in this proceeding is whether to permit future authorizations of PowerTrunk telecommunications and video surveillance equipment. The Commission rejects the argument that any such PowerTrunk equipment should be exempted from the prohibition that the Commission proposed in the *NPRM,* based on a determination made pursuant to the Secure Networks Act, and that Congress in the Secure Equipment Act directed the Commission to adopt.

In addition, the Commission rejects the arguments that video surveillance equipment is not ''covered'' under the Secure Networks Act because it is not ''communications equipment'' or ''essential to the provision of advanced communications service,'' as defined in section 9(4) of the Act. In its *Supply Chain 2nd R&O,* the Commission has already interpreted ''communications equipment or service'' and what is ''essential,'' codifying that interpretation in § 1.50001(c) of the Commission's rules: ''The term 'communications equipment or service' means any equipment or service used in fixed and mobile networks that provides advanced communications service, provided the equipment or service includes or uses electronic components.'' The Commission also rejects Hikvision USA's further contention that video surveillance equipment is not ''used in'' fixed and mobile networks, and Hikvision's and Dahua's assertions that such equipment is only ''peripheral'' equipment and not network equipment and hence not ''covered.'' In identifying such equipment as covered communications equipment under the Secure Networks Act, by reference to section 889(f)(3), Congress intended to capture such video surveillance equipment as ''covered'' equipment, even if is not core network equipment since the equipment is used (and indeed required) in the provision of a certain type of advanced communications service, *i.e.,* video surveillance services. In addition, the Commission is not persuaded by arguments that because the video surveillance and telecommunications equipment produced by the entities does not have to be interconnected to a telecommunications or broadband network, it is not ''covered'' equipment. As acknowledged, Hikvision, Dahua, and Hytera equipment can be interconnected, and often is. The Commission also notes that some of the video surveillance equipment is part of a cloud-based system requiring interconnection.

In sum, ''covered'' equipment on the Commission's Covered List includes ''telecommunications equipment'' as well as ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua (and their subsidiaries or affiliates), and was properly placed on the Covered List first published by PSHSB in March 2021. The Commission's existing rules rightfully prohibits the use of federal support to purchase or obtain any ''covered'' equipment on the Covered List, which appropriately includes a prohibition concerning this video surveillance and telecommunications equipment. The Commission also notes that its actions are consistent with the efforts of the Executive Branch in identifying and implementing a prohibition on procurement with respect to certain ''covered'' video surveillance and telecommunications equipment produced by Hytera, Hikvision, and Dahua.

Prohibition concerning equipment authorization of ''video surveillance and telecommunications equipment'' ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' In adopting the prohibition on authorizing ''covered'' equipment, the Commission is guided by the specific determination set forth in section 889(f)(3)(B) of the 2019 NDAA regarding ''covered'' ''telecommunications equipment'' and ''video surveillance equipment'' produced by Hytera, Hikvision, or Dahua (or their subsidiaries and affiliates). In the *NPRM,* the Commission proposed to prohibit authorizing any ''covered'' equipment on the Covered List. As discussed in the *NPRM,* pursuant to the Secure Networks Act section 2(c), the Commission must rely solely on the determinations made by the four enumerated sources identified in that section. Section 889(f)(3)(B) by its terms provides that ''covered'' equipment includes ''video surveillance and telecommunications equipment'' produced by Hytera, Hikvision, and Dahua ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' Accordingly, the Commission cannot and will not approve any application for equipment authorization that would allow the marketing and selling of such equipment for those specified uses. At the same time, this determination only includes, as ''covered'' equipment, video surveillance and telecommunications equipment produced by these entities that is for those particular purposes. Thus, at this time, in the absence of any other of the three identified and specific determinations made by any of the Executive Branch agencies identified in section 2(c) of the Secure Networks Act, the Commission cannot expand ''covered'' beyond that determination by adopting a blanket or categorical prohibition on authorizing equipment produced by these entities for those other purposes. The Commission's approach regarding this equipment is consistent with the Commission's previous interpretations of section 889(f)(3)(B) in the 2020 *Supply Chain 2nd R&O* and in the language specified in the Covered List, in which the Commission stated that this equipment produced by Hytera, Hikvision, and Dahua (and their subsidiaries and affiliates) is ''covered'' ''to the extent used'' for these specified purposes. And, as discussed above, federal agencies in implementing the federal agency procurement prohibitions under section 889 have interpretated this statutory language regarding the scope of ''covered'' equipment in a like manner.

Accordingly, the Commission is prohibiting authorization to market and sell Hytera, Hikvision, and Dahua ''telecommunications equipment'' and ''video surveillance equipment'' (and that produced by their subsidiaries and affiliates) ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' For any equipment authorization application for video surveillance and telecommunications equipment produced by these entities, the Commission will impose strict and appropriate conditions on any approved grant, consistent with the Commission's equipment authorization rules. Specifically, the Commission will only conditionally authorize the marketing and sale of such equipment authorization subject to this prohibition. The Commission also will require labeling requirements that prominently state this prohibition. As a condition of

the equipment authorization, the Commission also will impose stringent marketing and sale prohibitions associated with the equipment, which will apply not only with respect to these entities (and their subsidiaries and affiliates), but also to their equipment distributors, dealers, or re-sellers, *i.e.,* every entity down the supply chain that markets or offers the equipment for sale or that markets or sells the equipment to end-users.

Based on the record before us, the Commission is also concerned that adopting conditions alone will not be sufficient to ensure that ''covered'' equipment is not over time marketed, or ultimately sold, for the purposes prohibited under section 889(f)(3)(B) of the 2019 NDAA. Given that ''covered'' equipment poses an unacceptable risk if used ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes,'' the Commission adopted additional restrictions as described herein to prevent marketing and sale of Hytera, Hikvision, or Dahua ''telecommunications equipment'' or ''video surveillance equipment'' for use for the purpose of public safety, government security, critical infrastructure, or national security.

Based on the record, which highlights the lack of oversight that Hytera, Hikvision, and Dahua have over the marketing, distribution, and sales of their respective equipment in the United States, the Commission is not confident that, absent additional prescriptive measures and Commission oversight, Hytera, Hikvision, and Dahua ''telecommunications equipment'' or ''video surveillance equipment'' will not be marketed and sold for those purposes that are prohibited under section 889(f)(3)(B) of the 2019 NDAA. Accordingly, the Commission will require that, before the Commission will permit an equipment authorization of any ''telecommunications equipment'' or ''video surveillance equipment'' produced by Hytera, Hikvision, or Dahua (or their subsidiaries or affiliates), these entities must each seek and obtain Commission approval for its respective plan that will ensure that such equipment will not be marketed or sold ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' Any such plan must demonstrate that effective measures are in place that will ensure that equipment distributors, equipment dealers, or others in the supply and distribution chains associated with marketing or sale of such equipment are aware of this restriction and do not market or sell such equipment to entities for the purposes mentioned above. Such a plan must include well-articulated and appropriate measures at the distributor and dealer levels to ensure that the entity does not market or sell for prohibited purposes. Before any Hytera, Hikvision, or Dahua ''telecommunication equipment'' or ''video surveillance equipment'' will be authorized for market or sale, the applicant seeking approval of any ''covered'' equipment produced by any of these entities (or their subsidiaries or affiliates) must submit a specific plan associated with the equipment, which will be reviewed by the full Commission and only approved if the measures that are and will be taken are sufficient to prevent the marketing and sale of such equipment for purposes prohibited under section 889(f)(3)(B) of the 2019 NDAA.

The Commission provides guidance on what constitutes ''telecommunications equipment'' and ''video surveillance equipment,'' as well as clarifying the scope of the prohibition under section 889(f)(3)(B) concerning ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' Finally, the Commission notes that the actions in this proceeding, including this particular prohibition on authorization of ''telecommunications equipment'' and ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua, are among the several Commission and whole-of-government approaches underway and that are continuing to evolve. As discussed below, as future determinations are made under section 2(c) of the Secure Networks Act regarding ''covered'' equipment that poses an unacceptable risk to national security, and the Covered List is updated accordingly, authorizations of such equipment will be prohibited as well.

2. ''Covered'' Equipment Produced by Subsidiaries and Affiliates

On the current Covered List, ''covered'' equipment produced by ''subsidiaries and affiliates'' of the companies named on the Covered List also are included within the scope of ''covered'' equipment, and authorization of such equipment will be prohibited as ''covered'' equipment as a result of the Commission's revisions to the equipment authorization program rules adopted in this proceeding. Applicants seeking equipment authorizations will be required to attest (in the form of a written and signed certification) that the equipment for which they are seeking authorizations is not ''covered'' equipment produced by any of the entities identified on the Covered List, which thus could include equipment produced by the named entities on the Covered List or produced or by any subsidiaries or affiliates of those entities.

Definitions. The Commission addresses here the relevant definitions that the Commission will apply in the rules implementing the prohibition on authorization of ''covered'' equipment to the extent such equipment includes equipment produced by subsidiaries and affiliates of entities specifically named on the Covered List. The Commission starts with ''affiliate,'' for which it adopted the definition consistent with that adopted by the Commission in its *Supply Chain 2nd R&O.* That order defined ''affiliate'' as ''a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person,'' referencing the definition of ''affiliate'' contained in section 3 of the Communications Act (47 U.S.C. 153(2)). The Commission notes that the definition of affiliate in the Communications Act further states that ''[f]or purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent,'' and the Commission adopted such further clarification in this proceeding. For purposes of implementation in the Commission's equipment authorization program, the Commission defines ''affiliate'' as an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another entity, where the term ''own'' means to have, possess, or otherwise control an equity interest (or the equivalent thereof) of more than 10 percent.

As for ''subsidiary,'' the Commission notes generally that a subsidiary is an affiliate that is directly or indirectly controlled by an entity (*e.g.,* corporation) with at least a greater than 50% share. In the context of reviewing foreign ownership under section 310(b) of the Communications Act, the Commission's rule defines a ''subsidiary'' of a licensee as ''any entity in which a licensee owns or controls, directly and/or indirectly, more than 50 percent of the total voting power of the outstanding voting stock of the entity, where no other individual or entity has de facto control.'' The Commission believes that adopting a broader

definition of subsidiary than the one set forth in the Commission's foreign ownership rules is appropriate here in light of the national security purposes of the Secure Equipment Act. For purposes of implementing the prohibition on ''covered'' equipment, the Commission defines ''subsidiary'' of an entity named on the Covered List as any entity in which such named entity directly or indirectly (1) holds *de facto* control or (2) owns or controls more than 50% of the total voting power of the entity's outstanding voting stock.

Names of entities identified on the Covered List that produce ''covered'' equipment, including subsidiaries and affiliates. The Commission also adopted a requirement that, to the extent the Covered List identifies named entities as well as certain unnamed associated entities—such as subsidiaries or affiliates—as producing ''covered'' equipment, each such entity specifically named on the Covered List as producing ''covered'' equipment must submit information to the Commission regarding that named entity's associated entities. As discussed above, the current Covered List identifies equipment produced by certain named entities and their subsidiaries and affiliates as ''covered'' equipment. As Motorola notes, the entities on the Covered List do not currently publicly disclose detailed information about their corporate relationships, including the names of their subsidiaries and affiliates, and it contends that it is ''imperative'' that the Commission have visibility into these relationships. In implementing rules and procedures to prohibit authorization of such ''covered'' equipment produced by particular entities named on the Covered List and their associated entities (*e.g.,* their respective subsidiaries and affiliates), the Commission finds that it is critical that the Commission, as well as applicants for equipment authorizations, TCBs, and other interested parties, have the requisite, transparent, and readily available information of the particular entities that in fact are such associated entities of the named entities on the Covered List. The Commission finds that having this information on the names of such associated entities promotes effective implementation of and compliance with the prohibition, by providing the Commission and TCBs in advance of reviewing any equipment authorization applications with a list of all those entities to which the Covered List applies. Requiring that this information be provided to the Commission and made public aligns with the regulatory requirements that the Commission proposed in the *NPRM* and that the Commission has adopted, namely placing responsibilities on applicants to attest that their equipment is not ''covered'' equipment produced by any of entities identified on the Covered List. This also adds another important informational element to the overall comprehensive regulatory scheme and approach that the Commission is taking to ensure that applications for authorization of ''covered'' equipment are not submitted to the Commission and that no such equipment authorization is granted. Requiring this information is both reasonable and justified in keeping with the Commission's goal of effectively ensuring that ''covered'' equipment determined as posing an unacceptable risk to national security under the Secure Networks Act, and prohibited from authorization under the Secure Equipment Act, is not authorized, and helps to ensure that the Commission meet the mandate in the Secure Equipment Act that the Commission not approve grant of any ''covered'' equipment. Finally, it is also critical that such information be up-to-date and maintained in a place for all interested parties to reference for purposes of compliance with the Commission's rules, including the applicants' attestation requirements.

Accordingly, if ''covered'' equipment on the Covered List includes equipment produced by named entities as well as associated unnamed entities (*e.g.,* their subsidiaries and affiliates), the Commission will require that each entity specifically named on the Covered List that produces ''covered'' equipment submit a complete and accurate list to the Commission, within 30 days of effective date of the rules, identifying the names of such associated entities that produce equipment that requires an equipment authorization under the rules the Commission adopted in the Report and Order, and must provide up-to-date information on any changes to the list with respect to any such entities. For each such associated entity (*e.g.,* subsidiary or affiliate), the entity named on the Covered List must provide the following information: full name, mailing address and physical address (if different from the mailing address), email address, and telephone number. If there are changes to a named entity's list of such associated entities, that entity must submit such updated information to the Commission within 30 days of the change(s), and indicate the date on which the particular change(s) occurred. These submissions must be supported by an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the named entity on the Covered List with personal knowledge verifying the truth and accuracy of the information provided about the entity's associated entities. The affidavit or declaration must comply with § 1.16 of the Commission's rules. This information on these entities will be posted on the Commission's website as an appendix to the guidance on ''covered'' equipment posted by OET and PSHSB, and will be updated with any updated information that the Commission receives. Applicants requesting equipment authorizations will be able to reference this information when making attestations regarding the producer of equipment for which they seek authorizations, as will TCBs, the Commission, and other interested parties.

3. Re-Branded (''White Label'') Equipment

Particular equipment, including products approved through the Commission's equipment authorization program, may be produced by particular companies or manufacturers and subsequently re-branded by other companies. The Commission notes, for instance, that Dahua USA acknowledges that its video surveillance equipment may be re-branded and sold under re-branded names. IPVM also notes that Hikvision and Dahua video cameras often have been relabeled and sold under another name.

As discussed above, the Commission is prohibiting authorizing ''covered'' equipment ''produced'' by any of the named entities (as well as their subsidiaries or affiliates) on the Covered List. Under the prohibition on authorizing equipment ''produced'' by entities on the Covered List the Commission is also precluding any equipment application by any other entity to the extent that the equipment for which authorization is sought had been produced by entities identified on the Covered List but has been re-branded or re-labeled with other names or associated with other companies. Re-branding of equipment does not change the status of whether the equipment itself is ''covered'' equipment prohibited from equipment authorization.

4. Guidance on Implementing the Prohibition on Authorizing ''Covered'' Equipment in the Equipment Authorization Program

The Commission affirms its earlier decisions and concludes that, pursuant to the Secure Networks Act and section

889(f)(3) of the 2019 NDAA, ''covered'' equipment on the current Covered List includes both ''telecommunications equipment'' and ''video surveillance equipment'' produced by Huawei and ZTE (and their subsidiaries and affiliates), as well as such equipment produced by Hytera, Hikvision, and Dahua (and their subsidiaries and affiliates) to the extent used ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' Under the rules that the Commission adopted in this proceeding, the Commission will no longer permit the authorization to market or sell any such ''covered'' equipment in the Commission's equipment authorization program. As an integral part of the Commission's implementation of this prohibition, under the Commission's revised part 2 equipment authorization rules, the Commission will require each applicant for equipment authorization to provide in its application an attestation (in the form of a written and signed certification) that the equipment in its application is not ''covered'' equipment. Below, the Commission provides additional clarity on what constitutes ''covered'' equipment that will be prohibited, as several have requested. As a general matter, given the importance of preventing ''covered'' equipment from being made available for uses that would pose an unacceptable risk to national security or the security of U.S. persons, the terms of determinations made by any of the four enumerated sources and incorporated into the Covered List should be interpreted broadly.

In proposing in the *NPRM* to require applicants for equipment certification to attest that the subject equipment is ''not'' covered, the Commission recognized the importance of providing guidance to applicants, TCBs, and other interested parties. In particular, the Commission proposed to direct Commission staff (OET, working with PSHSB, WCB, IB, and EB) to develop pre-approval guidance or other guidance to assist in implementing the Commission's prohibition on authorization of ''covered'' equipment. Here, the Commission provides guidance to Commission staff as well as applicants, TCBs, and other interested parties regarding the administration and implementation of the prohibition of the authorization of ''covered'' equipment through the attestation process, the TCBs' assessment, and the Commission in its implementation and monitoring of the equipment authorization process to ensure that ''covered'' equipment is not authorized for marketing or sale.

For purposes of the implementation of the equipment authorization program, the Commission interprets the terms ''telecommunications equipment'' and ''video surveillance equipment'' broadly to ensure that equipment that could pose an unacceptable risk is not authorized, in keeping with the Commission's proposal and its acknowledgement in the Secure Equipment Act of 2021. As discussed below, the Commission delegates to OET and PSHSB, working with other bureaus/offices as appropriate, the authority to provide additional clarity with regard to the scope of covered equipment for purposes of the Commission's equipment authorization program, to make such information on the Commission's website, and to revise that information as appropriate. The Commission underscores the importance for each applicant seeking authorization of equipment to exercise due diligence in preparing and submitting its attestation that the subject equipment for which it seeks authorization for market or sale is not ''covered.'' At the time of the filing of its application for certification of equipment, each applicant must have reviewed the Commission rules and guidance set forth on its web page, and have determined through due diligence that the subject equipment in its application for certification is not ''covered.'' As discussed above, false statements or representations that the subject equipment is ''not'' covered will result in denial of an application or revocation of the equipment authorization and potentially additional enforcement action.

As noted in the *NPRM,* the Commission authorizes a wide array of equipment. Under existing rules for certification, such equipment includes base stations, transmitters associated with various licensed services (including mobile phones, land mobile radios), Wi-Fi access points and routers, home cable set-top boxes with Wi-Fi, laptops, intelligent home devices, and various wireless consumer equipment. Equipment that is subject to authorization under existing SDoC procedures includes certain microwave and broadcast transmitters, certain private land mobile equipment, certain equipment for unlicensed use (*e.g.,* business routers, internet routers, firewalls, internet appliances, surveillance cameras, business servers, and certain ISM equipment).

In addition to providing guidance clarifying the nature of ''telecommunications equipment'' and ''video surveillance equipment,'' the Commission also discusses the scope of the prohibition with regard to authorization of Hytera, Hikvision, and Dahua ''telecommunications equipment'' and ''video surveillance equipment.'' Pursuant to the determination made by Congress under section 889(f)(3)(B), and as identified on the Covered List, such equipment produced by these entities is ''covered'' ''for purposes of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.''

Telecommunications equipment. Considering the importance of prohibiting authorization of ''covered'' equipment that poses an unacceptable risk to national security, the Commission interprets ''telecommunications equipment'' broadly for purposes of the Commission's equipment authorization program. This approach is consistent with the Commission's earlier decisions that broadly define ''communications equipment'' under the Secure Networks Act. It also accords with congressional intent in the Secure Equipment Act of 2021.

In particular, the Commission interprets ''telecommunications equipment'' as broadly as it previously defined ''communications equipment.'' Under the approach adopted here, ''telecommunications equipment'' means any equipment used in fixed or mobile networks that provides advanced communications service, provided the equipment includes or uses electronic components, as defined under § 1.50001(c). Further, taking into consideration the definition of ''advanced communications service'' under § 1.50001(a), this would encompass any equipment that can be used in such a fixed or mobile broadband network to enable users to originate and receive high quality voice, data, graphics, and video telecommunications using technology with connection speeds of at least 200 kbps in either direction. By taking this broad approach, the Commission brings within the scope of the prohibition a wide range of communications equipment that are used within broadband networks. The Commission's goal in adopting this definition is to provide clear guidance that promotes regulatory compliance and administrability, as well as regulatory certainty.

The Commission rejects the contention that ''telecommunications equipment'' under the Secure Networks Act must necessarily exclude all CPE

equipment or IoT equipment, or that ''telecommunications equipment'' under the Secure Networks Act should be defined in the same manner as the term ''telecommunications equipment'' is defined under the Communications Act. In interpreting and broadly defining ''communications equipment'' under the Secure Networks Act, the Commission indicated its concern, consistent with congressional intent, that the Commission protects against the use of insecure equipment in advanced communications services, and it did not indicate an intent to exclude all CPE or IoT equipment from the scope of ''covered'' equipment under the Act. Nor was there any indication by Congress, when adopting section 889(f)(3) as part of the NDAA of 2019 regarding prohibitions on federal agencies' procurement of ''telecommunications equipment'' (or ''video surveillance equipment'') that the term ''telecommunications equipment'' in the NDAA was to be narrowly defined and limited to ''telecommunications equipment'' as defined in the Communications Act or used by the Commission in certain Commission-focused contexts. As Motorola points out, the NDAA involves a different statutory scheme. As the courts have repeatedly recognized, Congress may have intended to accord different scope to the same language used in different statutes, depending upon the context and purpose of the statutory scheme. Indeed, the Commission notes that the federal agencies' own procurement rules, whose national security purposes are much more relevant here, define ''telecommunications'' broadly as ''the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by cable, satellite, fiber optics, laser, radio, or other electronic, electric, electromagnetic, or acoustically coupled means;'' those rules further define ''telecommunications services'' as meaning ''the services acquired, whether by lease or by contract, to meet the Government's telecommunications needs,'' including ''the *equipment* necessary to provide such services'' (emphasis added). Considering the Commission's goal of eliminating future authorization of ''covered'' equipment that poses an unacceptable risk to national security, the Commission does not interpret the scope of ''covered'' equipment narrowly because a limited view of what constitutes insecure equipment would potentially result in an unacceptable risk to national security and would be inconsistent with the broader definition used by federal agencies implementing the section 889 prohibition on federal agency procurement of ''telecommunications equipment.''

The Commission also notes, for instance, that pursuant to section 5 of the Secure Networks Act, the Commission requires that advanced communications service providers submit annual reports certifying whether they had purchased, leased, rented, or otherwise obtained ''covered'' equipment after August 18, 2018. The Commission directed the Office of Economics and Analytics (OEA) to administer this data collection, and in doing so it issued guidance (''Supply Chain Annual Reporting 2022 Filing Instructions'') to define the information that advanced service providers were required to file and to act as a guide to assist filers with submitting the necessary information. Pursuant to these instructions, advanced service providers are required to submit information on ''covered'' equipment that is in different layers of their networks, including in the ''access layer,'' the ''distribution layer,'' and the ''core layer.'' ''Access layer'' equipment is equipment associated with providing and controlling end-user access to the network over the ''last mile,'' ''local loop,'' or ''to the home'' (*e.g.,* optical terminal line equipment, optical distribution network devices, customer premises equipment (to the extent owned by the advanced services provider), coaxial media converters, wavelength-division multiplexing (WDM) and optical transporting networking (OTN) equipment, and wireless local area network (WLAN) equipment). ''Distribution equipment'' includes middle mile, backhaul, and radio area network (RAN) equipment (*e.g.,* routers, switches, network security equipment, WDN and OTN equipment, and small cells). ''Core layer'' equipment is associated with the backbone infrastructure (*e.g.,* optical networking equipment, WDN and OTN, microwave equipment, antennas, RAN core, Cloud core, fiber, and data transmission equipment). The Commission affirms the broad approach taken by OEA in implementing the annual reporting requirement on ''covered'' equipment—including its specific inclusion of ''access layer,'' ''distribution layer,'' and ''core layer'' equipment in networks providing advanced communications services as falling within the scope of what constitutes ''covered'' equipment under the Secure Networks Act.

Because of the wide array and variety of devices in the marketplace, the Commission cannot in this document identify all of the categories or types of equipment that would constitute ''telecommunications equipment.'' The Commission nonetheless proffers some additional clarity consistent with the broad definition of ''telecommunications equipment'' for purposes of implementing the prohibition on authorization of ''covered'' equipment in this proceeding.

Huawei and ZTE each produce, among other things, different types of equipment that requires certification, including base stations, cell phone and smart phone handsets, tablets, and routers that operate under particular rules for licensed services (*e.g.,* part 22, 24, 27, 90, 96) as well as various unlicensed devices, including Wi-Fi routers. Hytera produces, among other things, base station units and repeaters, as well as trunking systems PLMR/DLMR handsets and two-way radios, which operate under various rules for licensed services (*e.g.,* part 22, 24, 80, 90, 95). Hytera representatives assert not only that Hytera equipment is not ''covered'' because it is ''peripheral'' equipment or CPE, but also contend generally that Hytera equipment is not ''telecommunications equipment'' or ''covered communications equipment'' because it is generally not interconnected to a fixed or mobile broadband network (although its notes that a small subset of handsets (*e.g.,* PowerTrunk TETRA) is so designed). As noted above, Hikvision and Dahua representatives also each generally assert the company does not produce any ''telecommunications equipment,'' and argue that no CPE and IoT can be deemed such equipment. Hikvision USA further asserts that, while Hikvision does produce U–NII router equipment for unlicensed use, such equipment is not ''covered'' because it is CPE and is within an end-user's internal enterprise network on the user's side of the gateway router and therefore not broadband equipment.

Whether particular equipment is covered telecommunications equipment will turn on applying the Commission's interpretation of what constitutes such equipment. As discussed, the Commission believes that Congress intended to take a broad view of what constitutes ''covered'' ''telecommunications equipment'' for purposes of the prohibition on future equipment authorizations. Accordingly, the Commission concludes not only that the types of ''telecommunications equipment'' specifically identified in the Supply Chain Annual Reporting 2022 Filing Instructions are ''covered''

for the purposes of this proceeding, including equipment such as cellular base stations, backhaul, and core network equipment, but the Commission also clarifies that handsets designed for operation over fixed or mobile networks providing advanced communications services also are ''covered.'' The Commission makes this decision recognizing that handsets generally, as well as many CPE and IoT devices, meet the broad definition the Commission adopted insofar as these devices incorporate electronic components, could enable users to originate and receive high quality voice, data, graphics, and video telecommunications with connection speeds of at least 200 kbps in either direction, and may be the end points of most broadband networks which makes them part of the network. The Commission disagrees with Hikvision USA's suggestion that the Commission has already concluded in the *Supply Chain 3rd R&O* that handsets, CPE, and IoT necessarily are not ''covered'' equipment when it observed that handsets and other CPE including IoT used by end users are different from cell sites, backhaul and core network equipment and then declined to require that such equipment be removed, replaced, and reimbursed under the Reimbursement Program. That observation only addressed what equipment would be eligible for reimbursement under the Reimbursement Program, and was not intended to define the nature of what equipment should be considered ''covered.'' As Motorola rightly notes, and as the Commission point about above, that proceeding limited the scope of the Reimbursement Program to a subset of the Covered List, and the equipment and services on the Covered List was not at issue. In the Commission's equipment authorization program, the Commission is not concerned with the Reimbursement Program but instead is focused on preventing future authorization of equipment that could pose an unacceptable risk to national security or the security and safety of U.S. persons. The Commission concludes that handset equipment designed for operation over broadband networks and that enable users to originate and receive high quality voice, data, graphics, and video telecommunications with connection speeds of at least 200 kbps in either direction fall within the broad scope of the Commission's interpretation of ''telecommunications equipment'' and is ''covered.'' Accordingly, the Commission notes that Huawei and ZTE handsets, and Hytera handsets to the extent designed to operate over broadband networks, are ''covered.'' The Commission also notes that this approach fully accords with congressional intent in the Secure Equipment Act, in which Congress sought to ensure that the Commission not approve devices that pose a national security risk and that equipment for which public funding was prohibited because it poses an unacceptable risk also should be addressed in the equipment authorization program. As for other CPE or IoT devices, whether particular equipment is ''covered'' will depend on whether it meets the requirements for ''covered'' equipment discussed above. These terms have been defined by industry in a variety of ways and contexts, and could include a wide range of equipment and technologies that may connect to the internet or other broadband networks without any specific regard as to whether the equipment would meet the requirements of ''covered'' communications equipment under the Secure Networks Act as interpreted by the Commission (*e.g.,* enable users to originate high quality voice, data, graphics, and video telecommunications with connection speeds of at least 200 kbps in either direction).

Because the Commission authorizes a wide range of equipment, and because additional clarification on ''covered'' equipment may be needed, the Commission delegates to OET and PSHSB, working with WTB, IB, WCB, EB, and OGC, as appropriate, to develop and finalize additional clarifications as needed to inform applicants for equipment authorization, TCBs, and other interested parties with more specificity and detail on the categories, types, and characteristics of equipment that constitutes ''telecommunications equipment'' for purposes of the prohibition on future authorization of ''covered'' equipment identified on the Covered List. As the Commission notes above, federal agencies are actively engaged in prohibiting procurement of ''covered'' equipment, including ''telecommunications equipment'' as defined by section 889(f)(3) of the 2019 NDAA. As OET and PSHSB develop more detailed guidance for purposes of the prohibition in the equipment authorization program, they may also review efforts from other federal agencies, such as the General Services Administration's efforts in its implementation of the procurement prohibition and the types of ''telecommunications equipment'' that constitute such ''covered'' equipment, the Federal Acquisition Security Council, the Department of Homeland Security's Information and Communications Supply Chain Risk Management Task Force, or other federal efforts, if those efforts are relevant to development of the guidance.

The Commission further directs OET and PSHSB to issue future clarifications in a Public Notice, and to post these clarifications on the Commission's website for ready access by all interested parties. This guidance will serve as a reference for applicants and other stakeholders to provide consistency and clarity for purposes of complying with the Commission's rules prohibiting authorization of ''covered'' equipment. OET and PSHSB are further directed to provide updated clarifications as appropriate, which could be further informed by information provided by interested parties. The Commission is also requiring that a Public Notice be issued with any updates to the guidance, along with an updated website. This guidance also can be used to assist TCBs in their assessments of equipment authorization applications to help preclude authorization of any ''covered'' equipment.

Video surveillance equipment. As with ''telecommunications equipment,'' considering the importance of prohibiting authorization of ''covered'' equipment that poses an unacceptable risk to national security, the Commission broadly interprets ''video surveillance equipment'' under the Secure Networks Act and section 889(f)(3) of the 2019 NDAA for purposes of the Commission's equipment authorization program. As discussed above, taking a broad approach to defining ''covered'' equipment also is consistent with the Commission's earlier decisions defining ''covered'' equipment broadly under the Secure Networks Act, and is in accord with congressional intent set forth in the Secure Equipment Act.

In particular, the Commission interprets ''video surveillance equipment'' consistent with the definition in the Commission's rules concerning ''communications equipment'' under the Secure Networks Act, to include any equipment that is used in fixed and mobile networks that provides advanced communications service in the form of a video surveillance service, provided the equipment includes or uses electronic components. In keeping with the definition of ''advanced communications service,'' the Commission intends with this definition

to encompass all equipment that is designed and capable for use for purposes of enabling users to originate and receive high-quality video telecommunications service using any technology with connection speeds of at least 200 kbps in either direction.

As discussed, Hikvision and Dahua each produce a wide range of products that are associated with video surveillance capabilities, including cameras, video recorders, and network storage devices. Although Hytera asserts that it does not produce any video surveillance equipment, the Commission notes that, among other things, it manufactures ''body-worn camera'' equipment. In their submissions, Hikvision and Dahua representatives each contend that its video surveillance equipment is ''peripheral'' or CPE, and hence not ''covered.'' The Commission rejects that view altogether, particularly given that section 889(f)(3) specifically discusses ''video surveillance equipment'' as ''covered,'' which reflects Congress's clear intent that video surveillance equipment can pose an unacceptable risk to national security. Hikvision and Dahua representatives also contend their respective video surveillance equipment is not ''covered'' because the equipment does not require connection to the internet (an end user's choice); Hikvision USA does acknowledge, however, that some of its video surveillance equipment (HikConnect) does require internet connection, and that in any event its equipment poses no danger because it is secure. Dahua USA contends, among other things, that its digital video recorders, network video recorders, data storage devices, and video surveillance servers should not be deemed ''covered.'' IPVM asserts that most video surveillance equipment today has internet connectivity as a widely-demanded feature, and notes in particular that Hikvision surveillance cameras are generally marketed as internet-protocol (IP) cameras that are designed and marketed for use connected to internet. IPVM also disagrees with Dahua USA's contention that video recorders are not ''covered'' as ''video surveillance equipment,'' and generally contends broadly that Hikvision and Dahua equipment poses a threat to the American public. Given the concerns Congress raised about the potential risks to national security associated with such video surveillance capabilities, the Commission believes it intended to take the broad view on what constitutes video surveillance equipment, and concludes that it includes not only surveillance cameras, but also video surveillance equipment associated with video surveillance services that make use of broadband capabilities, such as video recorders, video surveillance servers, and video surveillance data storage devices. The Commission makes this determination recognizing that these devices are capable of storing and sharing their content over broadband networks and thus being connect to the network, they become part of the network. The Commission also concludes that Hytera equipment that includes capabilities associate with video surveillance service, such as ''body cams,'' which are generally designed to connect to the internet, also is ''video surveillance equipment'' that is ''covered.''

As with ''telecommunications equipment,'' the Commission delegates to OET and PSHSB, working with WTB, IB, WCB, EB, and OGC, as appropriate, to develop and finalize additional guidance to inform applicants for equipment authorization, TCBs, and other interested parties in more specificity and detail, information on the categories, types, and characteristics of equipment that constitutes ''video surveillance equipment.'' As OET and PSHSB develop further clarification, the Commission authorizes them also to review efforts from other federal agencies, such as the General Services Administration's efforts in its implementation of the procurement prohibition and the types of ''video surveillance equipment'' that constitute such ''covered'' equipment under section 889(f)(3), the Federal Acquisition Security Council, the Department of Homeland Security's Information and Communications Supply Chain Risk Management Task Force, or other federal efforts, if those efforts are relevant to development of further clarification on what constitutes ''covered'' equipment.

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes. Pursuant to the Secure Networks Act and section 889(f)(3)(B) of the NDAA of 2019, the Commission is prohibiting, as ''covered'' equipment, the authorization of any ''telecommunications equipment'' or ''video surveillance equipment'' produced by Hytera, Hikvision, and Dahua (or their subsidiaries and affiliates) ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.'' As with ''telecommunications equipment'' and ''video surveillance equipment,'' the Commission interprets the scope of this section 889(f)(3)(B) prohibition broadly given the importance of preventing ''covered'' equipment from being made available for prohibited uses that would pose an unacceptable risk to national security or the security of U.S. persons.

In particular, the Commission construes the scope of elements associated with these purposes—public safety, government facilities, critical infrastructure, and national security—broadly with respect to the implementation in the Commission's equipment authorization program of the prohibition concerning ''covered'' Hytera, Hikvision, and Dahua equipment pursuant to the Secure Networks Act and section 889(f)(3)(B) of the 2019 NDAA. The Commission interprets the phrase ''[f]or the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes'' broadly, *i.e.,* as having broad scope with respect to any prohibition relating to covered communications equipment. Terms comprising this phrase—public safety, government facilities, critical infrastructure, and national security—are each construed broadly in order to prohibit authorization of equipment that poses an unacceptable risk to national security of the United States or to the security or safety of U.S. persons. The Commission discusses each of these terms below, and how the Commission broadly construes them consistent with the Secure Networks Act, section 889(f)(B) of the NDAA, and the Commission's goals in this proceeding to protect national security and the security and safety of U.S. persons.

With respect to ''public safety,'' the Commission finds that this includes services provided by state or local government entities, or services by non-governmental agencies authorized by a governmental entity if their primary mission is the provision of services, that protect the safety of life, health, and property, including but not limited to police, fire, and emergency medical services. For purposes of implementing the Secure Networks Act and the Secure Equipment Act, the Commission interprets public safety broadly to encompass the services provided by federal law enforcement and professional security services, where the primary mission is the provision of services, that protect the safety of life, health, and property. The Commission believes that this best fulfills Congress' intent with respect to the scope of public safety as that term is used in section 889(f)(3) in connection with

''covered'' Hytera, Hikvision, and Dahua equipment and the other terms in that section.

With respect to the term ''government facilities,'' the Commission finds instructive the Cybersecurity and Infrastructure Security Agency's (CISA) view of what constitutes the government facilities sector. According to CISA, the government facilities sector includes ''a wide variety of buildings, located in the United States and overseas, that are owned or leased by federal, state, local, and tribal governments.'' In addition to facilities that are open to the public, CISA notes that others ''are not open to the public [and] contain highly sensitive information, materials, processes, and equipment,'' and that these facilities include and are not limited to ''general-use office buildings and special-use military installations, embassies, courthouses, national laboratories, and structures that may house critical equipment, systems, networks, and functions.'' CISA also notes that ''[i]n addition to physical structures, the sector includes cyber elements that contribute to the protection of sector assets (*e.g.,* access control systems and closed-circuit television systems) as well as individuals who perform essential functions or possess tactical, operational, or strategic knowledge.'' The Commission believes that this description provides ample guidance for purposes of what constitutes ''government facilities'' for implementation of the prohibition that the Commission adopts in this proceeding.

With regard to scope of ''critical infrastructure'' and the prohibition that the Commission is adopting in this proceeding, the Commission applies the meaning provided in section 1016(e) of the USA Patriot Act of 2001, namely, ''systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.'' Presidential Policy Directive 21 (PPD–21) identifies sixteen critical infrastructure sectors: chemical, commercial facilities, communications, critical manufacturing, dams, defense industrial base, emergency services, energy, financial services, food and agriculture, government facilities, health care and public health, information technology, nuclear reactors/materials/waste, transportation systems, and water/waste water systems. In this connection, CISA, through the National Risk Management Center (NRMC), published a set of 55 National Critical Functions (NCFs) to guide national risk management efforts. The CISA/NRMC guide defines ''critical infrastructure'' similar to how that term is defined in the USA Patriot Act. Specifically, it defines the NCFs as ''functions of government and the private sector so vital to the United States that their disruption, corruption, or dysfunction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof.'' For purposes of implementing the rules the Commission adopted, the Commission finds that any systems or assets, physical or virtual, connected to the sixteen critical infrastructure sectors identified in PPD–21 or the 55 NCFs identified in CISA/NRMC could reasonably be considered ''critical infrastructure.''

As for ''national security,'' for purposes of this proceeding, the Commission interprets this term broadly as encompassing a variety of high-profile assets involving government, commercial, and military assets. In this connection, the Commission notes that section 709(6) of the Intelligence Authorization Act for Fiscal Year 2001, provides that '''national security' means the national defense or foreign relations of the United States.'' Accordingly, the Commission will rely on this definition for guidance.

The Commission delegates to OET and PSHSB, working with WTB, IB, WCB, EB, and OGC, as appropriate, to develop further clarifications to inform applicants for equipment authorization, TCBs, and other interested parties with more specificity and detail. As the Commission develops more detailed guidance, the Commission authorizes OET and PSHSB also to review efforts from and coordinate as necessary with the Commission's federal partners, such as but not limited to the Department of Justice, Department of Commerce, Department of Homeland Security, and Federal Bureau of Investigation.

Declaratory ruling. To the extent an interested party may seek to clarify whether particular equipment is ''covered'' for purposes of the equipment authorization prohibition, it can bring a request for declaratory ruling before the Commission. The Commission, in its 2020 *Supply Chain 2nd R&O,* similarly noted that any interested party that may seek to clarify whether a specific piece of equipment is included as ''covered'' on the Covered List could seek a declaratory ruling. At the same time, the Commission notes again that it has no discretion to reverse or modify determinations from the four enumerated sources under the Secure Networks Act that are responsible for those determinations, which the Commission must accept and include on the Covered List as provided, and that should a party seek to reverse or modify any such determination, it should petition the source of the determination. Moreover, the seeking of clarification by any party does not entitle such party to any presumption, nor is it the basis for arguing, that specific equipment is not ''covered,'' absent additional clarification from the Commission. The Commission delegates to OET and PSHSB authority to issue such declaratory rulings consistent with principle of broad interpretation of terms given the importance of preventing ''covered'' equipment from being made available for prohibited uses that would pose an unacceptable risk to national security or the security of U.S. persons, as illustrated above.

5. Future Updates on ''Covered'' Equipment and the Covered List

As noted, the Commission anticipates that the Covered List, which was most recently updated and published on September 20, 2022, will continue to be revised in the future based on further determinations about communications equipment made by any one of the four enumerated sources that are identified in section 2(c) of the Secure Networks Act. As discussed above, to date, the only determination that specifically concerns communications equipment is that made under section 2(c)(3) of the Secure Networks Act, specifically the determination made by Congress in section 889(f) of the 2019 NDAA. Future determinations concerning communications equipment could involve determinations by any of the other three enumerated sources as specified under the Secure Networks Act—per section 2(c)(1), ''[a] specific determination made by any executive branch interagency body with appropriate national security expertise, per including the Federal Acquisition Security Council established under section 1322(a) of title 41, United States Code; per section 2(c)(2), ''[a] specific determination made by the Department of Commerce pursuant to Executive Order No. 13873 (84 FR 22689; relating to securing the information and communications technology and services supply chain)''; and per section 2(c)(4), ''[a] specific determination made by an appropriate national security agency.''

As noted above, the Commission is required to monitor the status of determinations in order to update the Covered List by modifying, adding, or removing ''covered'' equipment on the Covered List, pursuant to § 1.50003.

Under the rules adopted in the Report and Order, the Commission will no longer authorize for marketing or sale equipment that has been placed on the Covered List, as that list evolves.

The Commission guidance provided in this document, along with the delegation of authority directing OET and PSHSB to publish and maintain information on the Commission's website concerning ''covered'' equipment should serve to enable implementation of updates concerning equipment that are placed on the Covered List. The Commission notes, for instance, that a new determination might modify the ''covered'' equipment on the Covered List only with regard to adding or removing the named entities that produce equipment that poses an unacceptable risk to national security. If so, then the guidance on the Commission's website can readily by updated on delegated authority and the added equipment will be prohibited in the Commission's equipment authorization program. The Commission recognizes, however, that a future determination by one of the four enumerated sources that results in an updated Covered List with respect to new types of equipment that pose an unacceptable risk potentially could require further consideration on delegated authority, consistent with the approach discussed above; if so, the Commission directs OET and PSHSB to so indicate through Public Notice, including discussion of the process by which the guidance will be developed and provided.

D. Other Issues

1. Cost-Effectiveness and Economic Impact

In the *NPRM,* the Commission stated that its proposed revisions to the Commission's equipment authorization rules and processes to prohibit authorization of ''covered'' equipment that had been determined by any one of the four enumerated source outside of the Commission as posing an unacceptable risk to national security would not be subject to a conventional cost-benefit analysis. The Commission stated that because it has no discretion to ignore these determinations, a conventional cost-benefit analysis—which would seek to determine whether the costs of the proposed actions would exceed the benefits—is not directly called for. Instead, the Commission stated that it would consider whether its actions would be ''a cost effective'' means to prevent this dangerous equipment from being introduced into the Commission's nation's communications networks, and sought comment on the Commission's proposed revisions to the equipment authorization rules and procedures.

The Commission recognizes that adopting a prohibition on the authorization of ''covered'' equipment may result in economic impacts on entities directly or indirectly associated with the ''covered'' equipment identified on the Covered List. However, as the Commission notes above, the rules adopted in the Report and Order regarding future authorizations of ''covered'' equipment are mandated by the Secure Equipment Act, requiring that the Commission will not approve any application for equipment authorization for equipment that is on the Covered List. The equipment included on the Covered List was determined by other expert agencies as posing an unacceptable risk to national security. As noted in the *NPRM,* because the Commission has no discretion to ignore the congressional mandates and other expert agencies' determinations, the Commission finds that a full cost-benefit analysis is not required with respect to the actions that the Commission is taking in this proceeding. Moreover, as the Commission explains below, it finds that the rules that the Commission adopted are a cost-effective approach to carry out the requirements of the Secure Equipment Act.

Certification rules and procedures. The Commission finds that the revision of § 2.911 requiring that applicants for equipment authorizations in the certification process attest that their equipment is not ''covered'' equipment on the Covered List while also indicating whether they are any entity identified on the Covered List, coupled with procedures for revocation for false statements or representations made in the application for certification, is a reasonable and cost-effective method to ensure that ''covered'' equipment is not certified. Because the attestation requirement is general, rather than a specific provision that directly relates to the equipment identified on the current Covered List, the Commission believes that most applicants will rely on boilerplate language that, once incorporated for a single certification, will be of negligible cost for an applicant to include in future applications. The Commission expects that the procedures for revocation for false statements or misrepresentations will deter most applicants from false attestations because of the cost that revocation would impose on an applicant. Moreover, the Commission notes that the attestation requirement that the Commission is adopting is more cost effective than an alternative approach, such as a verification process whereby a third party would confirm that equipment being certified is not on the Covered List; that type of third party verification would be substantially more costly to applicants and would likely slow innovation. The Commission believes that the costs it's imposing are reasonable in light of the national security goals.

Similarly, the Commission finds that requiring that each applicant for equipment certification designate a contact in the United States to act as an agent for service of process is reasonable and cost effective. No commenters raised concerns about the cost-effectiveness of this approach. As discussed above, the Commission has encountered difficulties in achieving service of process for enforcement matters involving foreign-based equipment manufacturers, and this helps ensure that the attestation requirement and other requirements associated with the prohibitions on ''covered'' equipment are enforceable.

SDoC rules. In light of the Commission's limited direct involvement in the SDoC process, the Commission finds that the rule prohibiting any of the entities (or their respective subsidiaries or affiliates) specified on the Covered List from using the SDoC process to authorize any equipment is a reasonable, cost-effective approach to safeguard national security. Because these entities or their subsidiaries or affiliates may produce ''covered'' equipment that poses an unacceptable risk to national security, even if these entities provide assurance that their equipment not included on the Covered List complies with appropriate technical standards, the Commission cannot be confident that such equipment does not pose a risk to national security. Directing all equipment authorization applications produced by entities named on the Covered List through the certification process, coupled with the Commission's revisions to the SDoC attestation requirements, will allow appropriate scrutiny and oversight by the Commission to ensure consistent application of the Commission's prohibition on further equipment authorization of ''covered'' equipment.

The Commission also concludes that adopting, as proposed, the requirement that all responsible parties seeking to utilize the SDoC process attest that the subject equipment is not produced by any entities (or their respective subsidiaries or affiliates) identified on the Covered List is a reasonable and

cost-effective means of ensuring that any equipment produced by those entities, instead is processed through the equipment certification process. The Commission finds this attestation requirement provides an appropriate means to ensuring that the SDoC process cannot be used to evade the Commission's restriction on use of the SDoC process (and instead require certification) with regard to entities that produce ''covered'' equipment.

The adopted rules associated with the SDoC process are narrowly tailored and a cost-effective means of achieving the Commission's overarching national security goals in this proceeding. They also are more cost-effective than other alternatives, such as changing the general rules by, for instance, requiring a registry or a central database specific to entities on the Covered List or setting up a novel verification process for such entities. The Commission's existing certification rules and procedures already encompass such means of verification without creating the need to design a new system to mitigate national security risk. Because the Commission's prohibition applies to subsidiaries and affiliates, when combined with the attestation requirement for responsible parties it will incentivize domestic importers who serve as responsible parties to take the straightforward steps to ensure that equipment produced by entities that produce ''covered'' equipment are processed in a consistent fashion pursuant to the certification process. This will substantially reduce the cost of enforcing the Commission's prohibition on importation and marketing of equipment on the Covered List.

2. Constitutional Claims

The Commission is unpersuaded by certain constitutional objections raised by Huawei Cos., Hikvision USA, and Dahua USA. Consequently, these arguments provide no basis for undercutting the Commission's decision to adopt new equipment authorization rules in the Report and Order.

a. Bill of Attainder

The Commission rejects the claims of Huawei Cos., Hikvision USA, and Dahua USA that denying equipment authorizations for equipment on the Covered List would represent an unconstitutional bill of attainder. The Supreme Court has identified three elements of an unconstitutional bill of attainder: (1) ''specification of the affected persons,'' (2) ''punishment,'' and (3) ''lack of a judicial trial.'' The Commission finds the showings in the record regarding the first and second elements inadequate here.

As a threshold matter, the Commission clarifies the framing of the Commission's bill of attainder analysis in light of the different formulations of those arguments employed by commenters. Depending in part on whether commenters raised their bill of attainder concerns before or after the enactment of the Secure Equipment Act, those arguments focused variously on: section 889 of the 2019 NDAA (which provided one of the four triggers for inclusion on the Covered List under the Secure Networks Act); the Secure Equipment Act (which directed the Commission to enact rules clarifying that it would not issue equipment authorizations for equipment on the Covered List published by the Commission under the Secure Networks Act); or the new Commission rules themselves.

Because it is the Secure Equipment Act that ultimately directs the Commission to enact rules yielding the results that are the focus of commenters' bill of attainder concerns, the Commission frames the bill of attainder analysis in terms of that statute. Nonetheless, the Commission makes clear that the analysis below provides sufficient grounds to reject commenters' bill of attainder arguments however they are framed or viewed.

The Commission rejects claims that the Secure Equipment Act is an unconstitutional bill of attainder for a number of independent reasons. For one, it is not clear that the constitutional prohibition on bills of attainder protects corporations, as opposed to individuals. To the extent that it does not protect corporations, its protections would be unavailable to the commenters that raised bill of attainder concerns here. Even if the constitutional prohibition on bills of attainder does protect corporations, however, courts have recognized that ''it is obvious that there are differences between a corporation and an individual under the law,'' and as a result ''any analogy between prior [bill of attainder] cases that have involved individuals and [cases] involv[ing] a corporation, must necessarily take into account this difference.'' At a minimum, then, the distinction between corporations and individuals informs the Commission's analysis below.

The ''specification'' criteria. In significant part, the Secure Equipment Act also does not involve a specification of the affected persons as necessary to constitute a bill of attainder. Although initial iterations of the Covered List—identifying the equipment, products, and services of certain specified companies—had been published by the time the Secure Equipment Act was enacted, the Covered List required by the Secure Networks Act was designed to evolve over time, expanding or contracting based on the four statutory triggers for inclusion on that list. Thus, the Commission is not persuaded that the specificity prong would be satisfied by the existence of the Covered List at the time of the Secure Equipment Act's enactment.

Nor do most of the Secure Networks Act's triggers for inclusion on the Covered List represent a ''specification'' of affected persons for bill of attainder purposes. The first, second, and fourth triggers under the Secure Networks Act each turn on future ''specific determination[s]'' by relevant executive agencies and neither specifically identify companies or individuals by name, nor rely on a framework where the potentially-covered class ultimately subject to inclusion on the Covered List could be easily identified at the time the Secure Equipment Act was enacted. Nor do those triggers turn on past conduct defining the affected individual or group in terms of ''irrevocable acts committed by them.'' Consequently, the Commission concludes that those triggers do not satisfy the ''specification'' prong of the bill of attainder analysis. Admittedly, aspects of the trigger based on section 889(f)(3) of the 2019 NDAA do rely on certain classes of products and services from specifically-identified companies. But the Secure Network Act's triggers do not otherwise identify the entities or individuals with products or services potentially subject to inclusion on the Covered List by name or in a manner that would render the covered class easily ascertainable when the Secure Equipment Act was enacted.

Aspects of the section 889-based trigger also do not appear to satisfy the ''specification'' criteria. For example, in addition to applying to certain classes of equipment and services from specifically-identified companies, section 889(f)(3) of the 2019 NDAA also covers ''[t]elecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.'' Whatever individual companies might know or suspect about themselves, the Commission is not persuaded that the

class of companies potentially covered by that criteria would have been easily ascertainable to Congress at the time of the Secure Equipment Act's enactment. Nor is the Commission persuaded that ownership by, or connection with, the Chinese government, even if existing at a given point in time, are irrevocable acts that could not be altered in the future thereby affecting whether given companies were potentially implicated by that trigger.

The ''punishment'' criteria. Even to the extent that the Secure Equipment Act meets the ''specification'' prong, the Commission is not persuaded that the denial of equipment certification represents a ''punishment'' under bill of attainder clause precedent. A ''punishment,'' in this context, is not merely a burden. To determine whether a statute imposes punishment for purposes of the bill of attainder clause, courts look to: ''(1) whether the challenged statute falls within the historical meaning of legislative punishment; (2) whether the statute, viewed in terms of the type and severity of burdens imposed, reasonably can be said to further nonpunitive legislative purposes; and (3) whether the legislative record evinces a congressional intent to punish.'' While courts weigh these factors together, ''the second factor—the so-called 'functional test'—invariably appears to be the most important.'' Even where a statute imposes a sanction falling within the historical meaning of punishment under the first factor, it is not a bill of attainder if it ''reasonably can be said to further nonpunitive legislative purposes'' under the second factor and the legislative record does not contain '''smoking gun' evidence of punitive intent'' under the third.

The party challenging a statute on attainder grounds bears the burden to ''establish that the legislature's action constituted punishment and not merely the legitimate regulation of conduct.'' And because statutes are ''presumed constitutional,'' ''only the clearest proof [will] suffice'' to invalidate a statute as a bill of attainder. The record here falls far short of the required showing.

With respect to the historical test regarding punishment, Hikvision USA and Dahua USA contend that denial of equipment authorization for equipment on the Covered List resembles ''an employment bar, banishment, and a badge of infamy.'' The Commission finds these comparisons unpersuasive. For one, ''[b]ecause human beings and corporate entities are so dissimilar,'' any analogy between the acts at issue in the employment bar cases and the restriction on equipment authorization under the Secure Equipment Act is ''strained at best.'' That distinction is important given the rationales underlying prior employment bar decisions. The Supreme Court extended ''punishment'' to include employment bars, in part, because the restrictions at issue ''violated the fundamental guarantees of political and religious freedom.'' The record does not reveal such concerns here.

While there is some retrospective aspect of section 889—namely, that there needed to be a basis to create the terms of the statute—that is common. Generally, all statutes have prospective and retrospective bases. But the focus of punishment in the bill of attainder context is a determination of past wrongdoing and sanctioning that conduct. That is what is missing from section 889 and that is what distinguishes section 889 from functionally appearing punitive. Thus, the fact that section 889 does not serve as a trial-like adjudication with a retrospective focus supports the Government's assertion that section 889 is a nonpunitive statute. But the analysis does not end here.''

Rather than representing something akin to an employment bar, the Commission finds the limitations much more analogous to line-of-business restrictions, which precedent commonly does not treat as imposing a punishment. Companies with equipment on the covered list remain free to manufacture, import, and market equipment that does not require equipment authorization from the Commission, for example, and the Secure Equipment Act also does not prohibit companies' business activities not involving the United States. Thus, unlike the statutes at issue in the employment bar cases, the Secure Equipment Act does not prevent companies with equipment on the Covered List from engaging in their chosen businesses in those respects.

The Commission also rejects claims that the limitations on Commission-issued equipment authorizations resemble banishment. Banishment, or exile, is the ''[c]ompelled removal or banishment from one's native country.'' It has ''traditionally been associated with deprivation of citizenship, and does more than merely restrict one's freedom to go or remain where others have the right to be: it often works a destruction of one's social, cultural, and political existence.'' Claims of banishment therefore typically arise in cases involving denaturalization, denationalization, and deportation proceedings. In light of this context, it is questionable whether banishment applies to corporations at all. Alternatively, even if banishment does apply to corporations, the Secure Equipment Act does not ''banish'' from the United States those companies with equipment on the Covered List. The statute does not destroy those companies' social, cultural, or political existence in this country. And it does not remove those companies from the United States (or any subdivision thereof), nor does it restrict their ability to manufacture, import, and market equipment in the United States that is not included on the Covered List.

The distinction between corporations and individuals also is important because ''the stain of a brand of infamy or disloyalty,'' characteristic of bills of attainder, matters to individuals in a way that it does not to corporations. Unlike ''flesh-and-blood humans . . . who, most likely, have but one country of citizenship,'' as well as ''neighbors and colleagues and communities in whose good graces they hope to remain,'' corporate reputation ''is an asset that companies cultivate, manage, and monetize.'' ''It is not a quality integral to a company's emotional well-being, and its diminution exacts no psychological cost.'' Because corporations do not ''feel burdens in the same way as living, breathing human beings,'' the bill of attainder analysis does not apply to them in the same way. The Commission thus rejects claims that the limitation on Commission equipment authorizations resembles a badge of infamy.

The functional test regarding punishment also persuades us that limitations on Commission-issued equipment authorizations as required by the Secure Equipment Act furthers nonpunitive legislative purposes, and thus is not punishment for bill of attainder purposes. The functional test asks ''whether the statute, viewed in terms of the type and severity of burdens imposed, reasonably can be said to further nonpunitive legislative purposes.'' ''It is not the severity of a statutory burden in absolute terms that demonstrates punitiveness so much as the magnitude of the burden relative to the purported nonpunitive purposes of the statute.''

The Secure Equipment Act includes a prospective focus, prohibiting the future Commission authorization of those products and thereby preventing their use in U.S. communications networks because the covered communications equipment is understood, under triggers established by Congress, as ''pos[ing] an unacceptable risk to the national security of the United States or the security and safety of United States persons.'' By restricting the Commission

from authorizing such equipment going forward, the Secure Equipment Act seeks to guard against future risks ''to the national security of the United States or the security and safety of United States persons'' that would arise if the equipment on the Covered List could be used by communications providers and customers, rather than punishing companies with equipment on the Covered List for past conduct. Thus, Congress ensured that the Commission could place equipment produced by any entity on the Covered List ''if and only if,'' among other things, it has capabilities associated with specific prospective national security risks—*i.e.,* of routing or redirecting traffic or permitting visibility into user data or packets, or causing remote disruption of the network—or ''otherwise posing an unacceptable risk to the national security of the United States or the security and safety of United States persons.''

The burdens imposed by the Secure Equipment Act are also sufficiently tailored to the statute's prophylactic purposes. The Supreme Court has warned that Congress must be given sufficient leeway in making policy decisions, lest the bill of attainder analysis ''cripple the very process of legislating.'' Congress is therefore not required to ''precisely calibrate the burdens it imposes to . . . the threats it seeks to mitigate.'' A statute does not fail the functional test unless it is ''significantly overbroad,'' such that it ''pil[es] on . . . additional, entirely unnecessary burden[s],'' or so underinclusive that it ''seemingly burdens one among equals.'' The standard is a high one because the inquiry remains whether the statute is so punitive that it ''belies any purported nonpunitive goals.''

The Commission is unpersuaded by claims that the inability to obtain a Commission-issued equipment authorization for equipment on the Covered List should be considered ''punishment'' on the theories that the prohibitions are overbroad in scope or that there are narrower, less burdensome alternatives that could have been employed. This approach to bill of attainder review runs afoul of the Supreme Court's warning against ''crippl[ing] the very process of legislating.'' The Bill of Attainder Clause does not command such a result. Precluding the Commission from granting authorizations for equipment on the Covered List has a clear nexus to the nonpunitive prophylactic purpose of guarding against risks ''to the national security of the United States or the security and safety of United States persons'' that would arise if the equipment on the Covered List could be used by communications providers and customers.

Further, whether or not Congress or policymakers arguably have treated all the equipment on the Covered List in an identical manner in other contexts that have implicated security concerns does not demonstrate that treating them similarly in this context is punitive, as some allege. This is particularly true insofar as Congress might continue to learn from its experiences as it legislates against the backdrop of prior actions in this area. Under the applicable standard, ''the question is not whether a burden is proportionate to the objective, but rather whether the burden is so disproportionate that it belies any purported nonpunitive goals.''

Nor is the Commission persuaded by Hikvision USA's claim that Congress instead could have relied entirely on the framework used in the Federal Acquisition Supply Chain Security Act of 2018, under which ''any company potentially subject to an exclusion or removal order would receive notice, including the relevant procedures and basis, a chance to respond, and an avenue for judicial review.'' Determinations made under that framework are, in fact, one basis for inclusion in the Covered List, but the Commission is not persuaded that (or an analogous approach) needs to be the exclusive mechanism for identifying equipment presenting security risks that warrant triggering inclusion on the Covered List and the associated restriction on Commission equipment authorizations under the Secure Equipment Act. Given the wide latitude afforded Congress to choose between policy alternatives, it ''does not matter that Congress arguably could have enacted different legislation in an effort to secure federal networks, because it cannot be legitimately suggested that the risks . . . were so feeble that no one could reasonably assert them except as a smoke screen for some invidious purpose.''

The Commission also rejects arguments that the Secure Equipment Act is underinclusive. To the extent that these arguments proceed from the assumption the Covered List only includes a limited, finite set of equipment from specific companies, they neglect the fact that the Covered List is designed by Congress to be updated over time—including reversing prior determinations—as additional determinations are made regarding security risk. This fact underscores that the statute's purpose is to counter a persistent threat, not to punish a particular company. Separately, the Supreme Court has explained that a law is not an unconstitutional attainder by virtue of its specificity, and there is no requirement that Congress pass only laws that are generally applicable. Such a requirement would leave Congress powerless to address national security threats directly whenever the person or entity posing the threat is specifically identifiable. The courts have therefore roundly—and rightly—rejected such an irrational result.

In addition, the Commission is unpersuaded by Hikvision USA's claim that the Secure Equipment Act imposes punishment based on the Congressional motivations underlying its enactment. The Supreme Court has cautioned that ''[j]udicial inquir[y] into Congressional motives [is] at best a hazardous matter'' and that ''the presumption of constitutionality'' that attaches to a congressional enactment ''forbids . . . [a] reading of the statute's setting which will invalidate it over that which will save it.'' Accordingly, ''only the clearest proof'' will render a statute unconstitutional based on congressional intent. ''[I]solated statements'' do not suffice. Yet commenters only muster isolated statements from individual legislators in support of their bill of attainder arguments here. The Commission finds such arguments particularly unpersuasive against the backdrop of the extensive history of concerns about U.S. safety and security in light of the sorts of equipment that are, and can be, included on the Covered List, which makes manifest its nonpunitive prophylactic purpose.

b. Equal Protection

The Commission rejects Hikvision USA's arguments that our actions here violate constitutional requirements of equal protection. In particular, the Commission rejects the claim that the new equipment authorization rules target certain companies ''on the basis of national origin or alienage'' and should be subject to strict scrutiny under the equal protection clause. The premise underlying the inclusion of companies on the Covered List is that ''communications equipment or service, . . . produced or provided by such entity poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.'' Although some commenters premise their equal protection concerns on the theory that they are being targeted merely because they are Chinese, the Commission observes that status as a Chinese company—or even a relationship with the Chinese

government—is not, standing alone, sufficient (or necessary) for inclusion on the Covered List. Ownership by, or connection with, the Chinese government is only one element of one possible basis for inclusion on the covered list, which also always critically depends on judgments about the technical characteristics and national security risks associated with the covered equipment and services. Because the treatment of these companies, as properly understood, does not turn on any suspect classifications, nor does it infringe fundamental constitutional rights, it only is subject to rational basis scrutiny under equal protection precedent. The treatment of these companies under the new equipment authorization rules adopted here readily satisfies rational basis review for the same reasons the Commission finds the new rules warranted more generally.

In the alternative, even assuming arguendo that strict scrutiny applied, the Commission concludes that standard would be satisfied here. Promoting national security is a compelling interest, as the Commission has recognized previously. The Commission also finds the new rules narrowly tailored to advance that interest. Those rules target the specific equipment identified as posing ''an unacceptable risk to the national security of the United States or the security and safety of United States persons'' under the framework of the Secure Networks Act, which involves either a judgment regarding national security risks made by Congress itself or through a specific executive branch analysis in that regard. Congress further concluded in the Secure Equipment Act that, in order to address those security risks, it was necessary for the Commission to deny equipment authorization for the equipment on the Covered List. The Commission's analysis of the new rules more generally likewise affirms the need to take this step to guard against the national security risks associated with equipment on the Covered List. Given that, the Commission is unpersuaded by some commenters' claims that the rules are overinclusive. The Commission also does not find the rules underinclusive. Contrary to some commenters' claims, the Covered List and the Commission's associated equipment authorization rules do not narrowly focus on companies linked to the Chinese government to the exclusion of companies from other countries, which arguably present similar security risks. While those comments myopically focus on the equipment actually included on the Covered List at a given moment in time, the Covered List is an evolving inventory of certain communications equipment and services found to present an unreasonable security risk under the Secure Networks Act's framework. The Commission expects that evidence of national security risks associated with other communications equipment and services similar to that posed by the equipment and services already on the Covered List likewise would lead to determinations under the review frameworks that would trigger inclusion of those equipment and services on the Covered List, and the Commission sees no basis in the record to suppose otherwise.

c. Takings

Nor is the Commission persuaded by Hikvision USA that the rules the Commission adopted in this proceeding represent a taking of property in violation of the Fifth Amendment. For one, the Commission finds that the rules do not represent a *per se* taking. The Commission's rules do not appropriate the equipment at issue for government use, nor is the Commission persuaded that the rules deny owners of the relevant equipment ''*all* economically beneficial us[e]'' of their property, given that the lack of Commission equipment authorization does not preclude it from, among other things, marketing, selling, or using the equipment outside the U.S.

The Commission also rejects assertions that its rules represent a regulatory taking. The principal factors a court will review in determining whether a governmental regulation effects a taking are: (a) the character of the governmental action; (b) the economic impact of that action; and (c) the action's interference, if any, with investment-backed expectations. Regarding the first factor, as noted above the rules adopted here do not appropriate the relevant equipment for government use, but instead promote a significant common good by promoting national security and protecting the nation's communications infrastructure from potential security threats. With respect to the second factor, even assuming *arguendo* some diminution in value of the equipment actually addressed by the Commission's actions in the Report and Order—*i.e.,* equipment that has not yet received Commission authorization, that is merely necessary—but not sufficient—to demonstrate a regulatory taking. Nor is the Commission persuaded that its rules interfere with reasonable investment-backed expectations under the third factor. The equipment at issue has long been subject to Commission authorization requirements, and the Supreme Court has recognized that for property that ''had long been subject to federal regulation'' there was no ''reasonable basis to expect'' that the regulatory regime would not change. Indeed, the reasonableness of any expectations regarding the not-yet-authorized equipment addressed by the Report and Order is especially doubtful, given the years of legislative and regulatory focus on possible security-related restrictions on such equipment. Particularly in light of ''the heavy burden placed upon one alleging a regulatory taking,'' the Commission finds no basis to find a regulatory taking on the record here.

d. Separation of Powers

The Commission also is unpersuaded by Hikvision that Commission actions would be invalid on separation of powers grounds. In particular, Hikvision contends that ''[b]ecause the FCC Commissioners are appointed by the President and wield significant powers that are executive in nature, but are not removable at will by the President, their status may well conflict with the Constitution's separation of powers'' in the event that certain recent Supreme Court precedent regarding Presidential removal were ''to be applied to multi-member agencies like the FCC.'' But insofar as the Supreme Court has not gone that far—as Hikvision itself observes—the Commission is not persuaded to find constitutional concerns in that regard ourselves.

3. WTO and Mutual Recognition Agreements

World Trade Organization (WTO). In its comments, the People's Republic of China (PRC) argues that placing only Chinese companies on the Covered List violates non-discriminatory principles in the World Trade Organization/Technical Barriers to Trade (WTO/TBT) agreement. In particular, it asserts article 2.1 of that agreement requires that member countries ensure that, in their technical regulations, products imported from other members must be accorded no less favorable treatment, and that prohibiting the authorization of equipment and services on the Covered List violates WTO/TBT transparency principles in the absence of a public technical standard and measurement index. Similar concerns are raised by Dahua, which urges the Commission to consider whether its proposed rule may implicate U.S. obligations through the WTO or the General Agreement on Tariffs and Trade.

The Commission finds that, contrary to those assertions, the Commission's actions in this proceeding are consistent with the United States' international obligations under the WTO/TBT agreement. As discussed above and clearly laid out in statute, the Commission is required to include on the Covered List equipment and services based solely on determinations by four enumerated U.S. Government sources relating to national security. Under the relevant statutes, those determinations are not made, as suggested by these commenters, on the basis of nationality but are made based on fact-specific reviews whether the relevant equipment and services are found to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons, and not on sweeping determinations on the basis of nationality. Indeed, the March 2022 update to the Covered List includes equipment and services from countries other than China. Finally, the Commission notes that nearly all products from China will remain eligible for equipment authorization under the Commission's new rules. Therefore, the Commission finds that the commenters' concerns are without merit.

Potential Impact on Global Trade and Mutual Recognition Agreements. Noting the ''robust'' international trade in consumer electronics, CTA asks that the Commission consider how changes to its equipment authorization program would impact relationships and policies with global trade partners, including possible retaliatory actions by China. In particular, CTA asks that the Commission consider potential impacts on the mutual recognition agreements (MRAs) that expedite trade, including the recognitions that participating countries give to each other's testing labs and certification bodies in order to speed time to market and decrease regulatory costs to manufacturers. Dahua also requests that the Commission consider whether adoption of its proposed rules could cause China to take retaliatory trade action.

The Commission has considered whether the proposed rules would have impacts on the relationships with the Commission's global trade partners, and in particular on MRAs. MRAs are expressly designed with recognition that equipment authorization processes are continually evolving. MRAs establish a process for the recognition of conformity assessment bodies and the acceptance of conformity assessment results without fixing the precise requirements to which products must conform, as these requirements evolve over time. They also typically include clauses on the preservation of regulatory authority in recognition of the need for future updates to such requirements. The changes to the Commission's rules adopted in the Report and Order merely update the requirements for authorizing equipment, without affecting which conformity assessment bodies may do so. Therefore, the Commission finds that the changes made here are consistent with the existing MRAs.

More generally, the Commission finds that the possibility of retaliatory trade action is speculative, and that the expected benefits of adopting the Commission's new rules outweigh any such concerns. As mentioned above, nearly all products from China that were previously eligible for equipment authorization will remain so under the Commission's new rules, and so the impact on international trade of adopting these new rules is likely to be small.

4. Claims That Commission Action Is Arbitrary and Capricious

The Commission rejects the arguments of Hikvision USA and Dahua USA that the Commission's actions in this proceeding are arbitrary and capricious. Hikvision USA argues that the Commission's regulations prohibition authorization of ''covered'' equipment is arbitrary and capricious because the regulations address highly speculative, unsubstantiated security risks about Hikvision equipment such as its video surveillance equipment, which Hikvision USA contends is secure as deployed. Hikvision USA also contends that the regulations are arbitrary and capricious because of the highly disruptive effects on American businesses. Among other things, Dahua USA contends that the proposed rules fall outside of the Commission's statutory authority and that the Commission should not, in any event, prohibit all of Dahua's equipment from authorization given that section 889(f)(3)(B) of the 2019 NDAA only concerns Dahua equipment to the extent used for specific purposes. Considering the Commission's discussion of the record before us, and the Commission's reasoned analyses explaining the elements of the decisions that the Commission adopted in this proceeding with regard to Hikvision and Dahua equipment, the Commission need not further address the claims that Hikvision USA and Dahua USA raise in general terms here.

E. Outreach

In the *NPRM,* the Commission sought comment on what types of actions or activities (*e.g.,* outreach and education) the Commission should take to inform all parties potentially affected by the Commission's changes to the equipment certification and SDoC rules, as well as any other rule revisions, to help ensure that they understand the changes and will comply with the prohibitions that the Commission adopted with respect to the authorization of ''covered'' equipment.

As discussed above, the Commission will provide clear guidance on the Commission's website regarding what constitutes ''covered'' equipment for purposes of the equipment authorization program and the prohibition on authorization that the Commission adopted in the Report and Order. The Commission also noted that OET and PSHSB will issue a Public Notice on such guidance, and that any updates will also be issued pursuant to a Public Notice.

With regard to the revisions affecting the SDoC process in particular, the Commission endeavors to assist each responsible party in identifying equipment that can no longer be authorized through the SDoC procedures, while also ensuring that each responsible party is accountable for any misrepresentations or violation of the prohibition that the Commission is implementing. Because SDoC procedure does not routinely involve direct interaction with the Commission, and because the rules specify who may act as a ''responsible party,'' in the *NPRM,* the Commission asked several questions related to disseminating the new SDoC limitations and requirements to the responsible parties. Commenters were largely silent on those questions and, as previously discussed, the Commission does not routinely maintain information for SDoC equipment thus making direct outreach difficult. The Commission finds that because most or all entities engaged in the SDoC process are familiar with FCC procedures and their obligations to comply with the Commission's requirements, it is sufficient to provide initial notification via publication of the Report and Order on the FCC website along with publication in the **Federal Register** of a summary of this change in procedure. Following implementation of the newly adopted procedures, the Commission encourages industry and other interested parties to reach out to the Commission with any questions or concerns regarding these procedures. The Commission directs OET to monitor

such inquiries and to issue additional guidance as needed.

II. Interim Freeze Order

Because of the revisions the Commission adopted in the Report and Order to the part 2 equipment authorization rules and procedures to prohibit authorization of any ''covered'' equipment specified in the Covered List, the Commission also adopted an interim freeze on further processing or grant of equipment authorization applications for equipment that is produced by any entity identified on the Covered List as producing ''covered'' equipment. This freeze was effective on release of the Report and Order, lasting only until the Commission provides notice that the rules adopted in the Report and Order have become effective. The Commission concluded that this action was necessary and in the public interest in order to avoid submission of new applications seeking authorization of equipment following the adoption of the Report and Order but before the rules would otherwise go into effect. The Commission took this action because ''covered'' equipment has been determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons, and the freeze accordingly serves the public interest.

Effective as of the adoption of the Report and Order, and because the Commission's rules, which are designed to determine which if any applications from the entities whose equipment is currently on the Covered List do not involve ''covered'' equipment, were not yet in effect, TCBs were directed to cease issuing equipment certifications to any of the entities identified on the Covered List—i.,e., the five named entities—Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company—and their subsidiaries or affiliates. OET was directed to issue pre-approval guidance relating to the prohibition against certification of this equipment to the TCBs. The Commission reminded TCBs that they were designated by the Commission ''to certify equipment in accordance with Commission rules and policies,'' and are required to ''conform their testing and certification processes and procedures to comply with any changes the Commission made in its rules and requirements.'' The Commission expected that TCBs, applicants, and responsible parties would be vigilant in taking appropriate actions to implement this freeze.

The purpose of this interim freeze was to preserve the current landscape of authorized equipment pending the effective date of the Commission's revisions to the equipment authorization process, which would serve to protect the public interest, including the national security and public safety of United States persons. This interim procedure is consistent with the Commission's practice of taking steps to ensure that parties do not take advantage of the period between the adoption of new rules and the date those rules become effective. The freeze was limited to the brief time period during which the rules implementing the statutory mandate were not yet effective. Finally, if the Covered List is updated to revise the entities identified on the Covered List as producing ''covered'' equipment, this procedural freeze would be revised accordingly. The Commission delegated authority to OET to modify or extend the freeze as appropriate.

III. Ordering Clauses

Accordingly, *it is ordered*, pursuant to the authority found in sections 4(i), 301, 302, 303, 309(j), 312, 403, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302a, 303, 309(j), 312, 403, 503, and the Secure Equipment Act of 2021, Public Law 117–55, 135 Stat. 423, that the Report and Order, Order, and Further Notice of Proposed Rulemaking *is hereby adopted*.

It is further ordered that the amendments of parts 2 and 15 of the Commission's rules as set forth in Appendix A *are adopted*, effective on the date of publication in the **Federal Register**.

It is further ordered that authority is delegated to the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau to develop and inform applicants for equipment authorization, TCBs, and other interested parties with more specific and detailed information on the categories, types, and characteristics of equipment that constitutes ''telecommunications equipment'' for purposes of the prohibition on future authorization of ''covered'' equipment identified on the Covered List, and to make such information available on the Commission's website, and to revise that information as appropriate.

It is further ordered that authority is delegated to the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau to adopt appropriate procedures for streamlined revocation proceedings and to revoke authorizations consistent with the provisions of the Report and Order.

It is further ordered that the interim freeze shall be effective on release, and authority is delegated to the Office of Engineering and Technology to extend or modify the interim freeze, as appropriate.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, Order, and Further Notice of Proposed Rulemaking, including the Initial and Final Regulatory Flexibility Analysis, to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 2

Communications equipment, Radio, Telecommunications.

47 CFR Part 15

Communications equipment

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 15 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336 unless otherwise noted.

■ 2. Amend § 2.901 by revising paragraph (a) to read as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards and other requirements for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be authorized

under Supplier's Declaration of Conformity or receive a grant of certification from a Telecommunication Certification Body.

■ 3. Add § 2.903 to subpart J to read as follows:

§ 2.903 Prohibition on authorization of equipment on the Covered List.

(a) All equipment on the Covered List, as established pursuant to § 1.50002 of this chapter, is prohibited from obtaining an equipment authorization under this subpart. This includes:

(1) Equipment that would otherwise be subject to certification procedures;

(2) Equipment that would otherwise be subject to Supplier's Declaration of Conformity procedures; and

(3) Equipment that would otherwise be exempt from equipment authorization.

(b) Each entity named on the Covered List as producing covered communications equipment, as established pursuant to § 1.50002 of this chapter, must provide to the Commission the following information: the full name, mailing address or physical address (if different from mailing address), email address, and telephone number of each of that named entity's associated entities (*e.g.,* subsidiaries or affiliates) identified on the Covered List as producing covered communications equipment.

(1) Each entity named on the Covered List as producing covered communications equipment must provide the information described in paragraph (b) of this section no later than March 8, 2023;

(2) Each entity named on the Covered List as producing covered communications equipment must provide the information described in paragraph (b) of this section no later than 30 days after the effective date of each updated Covered List; and

(3) Each entity named on the Covered List as producing covered communications equipment must notify the Commission of any changes to the information described in paragraph (b) of this section no later than 30 days after such change occurs.

(c) For purposes of implementing this subpart with regard to the prohibition on authorization of communications equipment on the Covered List, the following definitions apply:

Affiliate. The term ''affiliate'' means an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another entity; for purposes of this paragraph, the term 'own' means to have, possess, or otherwise control an equity interest (or the equivalent thereof) of more than 10 percent.

Subsidiary. The term ''subsidiary'' means any entity in which another entity directly or indirectly:

(i) Holds de facto control; or

(ii) Owns or controls more than 50 percent of the outstanding voting stock.

(d) The Commission delegates authority to the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau to develop and provide additional clarifications as appropriate regarding implementation of the prohibition on authorization of covered communications equipment. The Office of Engineering and Technology and Public Safety and Homeland Security Bureau will issue through Public Notice, and publish on the Commission's website, the Commission's relevant guidance on covered communications equipment, as well as further clarifications, and will update and maintain this information as appropriate.

■ 4. Amend § 2.906 by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 2.906 Supplier's Declaration of Conformity.

(a) Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in § 2.909, makes measurements or completes other procedures found acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards and other applicable requirements. Submittal to the Commission of a sample unit or representative data demonstrating compliance is not required unless specifically requested pursuant to § 2.945.

* * * * *

(d) Notwithstanding other parts of this section, equipment otherwise subject to the Supplier's Declaration of Conformity process that is produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, as producing covered communications equipment is prohibited from obtaining equipment authorization through that process. The rules governing certification apply to authorization of such equipment.

■ 5. Amend § 2.907 by adding paragraph (c) to read as follows:

§ 2.907 Certification.

* * * * *

(c) Any equipment otherwise eligible for authorization pursuant to the Supplier's Declaration of Conformity, or exempt from equipment authorization, produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, as producing covered communications equipment must obtain equipment authorization through the certification process.

■ 6. Amend § 2.909 by revising paragraph (a) to read as follows:

§ 2.909 Responsible Party.

(a) In the case of equipment that requires the issuance of a grant of certification, the party to whom that grant of certification is issued is responsible for the compliance of the equipment with the applicable technical and other requirements. If any party other than the grantee modifies the radio frequency equipment and that party is not working under the authorization of the grantee pursuant to § 2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

* * * * *

■ 7. Amend § 2.911 by revising paragraph (b) and by adding paragraphs (d)(5) through (7) to read as follows:

§ 2.911 Application requirements.

* * * * *

(b) A TCB shall submit an electronic copy of each equipment authorization application to the Commission pursuant to § 2.962(f)(8) on a form prescribed by the Commission at *https://www.fcc.gov/eas.*

* * * * *

(d) * * *

(5) The applicant shall provide a written and signed certification that, as of the date of the filing of the application with a TCB:

(i) The equipment for which the applicant seeks equipment authorization through certification is not prohibited from receiving an equipment authorization pursuant to § 2.903; and

(ii) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment.

(6) If the Covered List established pursuant to § 1.50002 of this chapter is modified after the date of the written and signed certification required by paragraph (d)(5) of this section but prior to grant of the authorization, then the applicant shall provide a new written and signed certification as required by paragraph (d)(5) of this section.

(7) The applicant shall designate an agent located in the United States for

the purpose of accepting service of process on behalf of the applicant.

(i) The applicant shall provide a written certification:

(A) Signed by both the applicant and its designated agent for service of process, if different from the applicant;

(B) Acknowledging the applicant's consent and the designated agent's obligation to accept service of process in the United States for matters related to the applicable equipment, and at the physical U.S. address and email address of its designated agent; and

(C) Acknowledging the applicant's acceptance of its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later.

(ii) An applicant located in the United States may designate itself as the agent for service of process.

* * * * *

■ 8. Amend § 2.915 by revising paragraph (a)(1) to read as follows:

§ 2.915 Grant of application.

(a) * * *

(1) The equipment is capable of complying with pertinent technical standards of the rule part(s) under which it is to be operated as well as other applicable requirements; and

* * * * *

■ 9. Amend § 2.929 by adding paragraph (b)(3) and revising paragraph (c) to read as follows:

§ 2.929 Changes in name, address, ownership or control of grantee.

* * * * *

(b) * * *

(3) Such second party must not be an entity identified on the Covered List established pursuant to § 1.50002 of this chapter.

(c) Whenever there is a change in the name and/or address of the grantee of certification, or a change in the name, mailing address or physical address (if different from mailing address), email address, or telephone number of the designated agent for service of process in the United States, notice of such change(s) shall be submitted to the Commission via the internet at *https://www.fcc.gov/eas* within 30 days after the beginning use of the new name, mailing address or physical address (if different from mailing address), email address, or telephone number and include:

(1) A written and signed certification that, as of the date of the filing of the notice, the equipment to which the change applies is not prohibited from receiving an equipment authorization pursuant to § 2.903;

(2) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment; and

(3) The written and signed certifications required under § 2.911(d)(7).

* * * * *

■ 10. Amend § 2.932 by adding paragraph (e) to read as follows:

§ 2.932 Modification of equipment.

* * * * *

(e) All requests for permissive changes shall be accompanied by:

(1) A written and signed certification that, as of the date of the filing of the request for permissive change, the equipment to which the change applies is not prohibited from receiving an equipment authorization pursuant to § 2.903;

(2) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment; and

(3) The written and signed certifications required under § 2.911(d)(7).

■ 11. Amend § 2.938 by revising paragraph (b) introductory text, redesignating paragraphs (b)(1) through (11) as paragraphs (b)(1)(i) through (xi), and adding paragraphs (b)(1) introductory text and (b)(2) to read as follows:

§ 2.938 Retention of records.

* * * * *

(b) For equipment subject to Supplier's Declaration of Conformity, the responsible party shall, in addition to the requirements in paragraph (a) of this section, maintain the following records:

(1) Measurements made on an appropriate test site that demonstrates compliance with the applicable regulations in this chapter. The record shall:

* * * * *

(2) A written and signed certification that, as of the date of first importation or marketing of the equipment, the equipment for which the responsible party maintains Supplier's Declaration of Conformity is not produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, as producing covered communications equipment.

* * * * *

■ 12. Amend § 2.939 by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 2.939 Revocation or withdrawal of equipment authorization.

* * * * *

(b) Revocation of an equipment authorization shall be made in the same manner as revocation of radio station licenses, except as provided in paragraph (d) of this section.

* * * * *

(d) Notwithstanding other provisions of § 2.939, to the extent a false statement or representation is made in the equipment certification application (see §§ 2.911(d)(5)–(7), 2.932, 2.1033, and 2.1043), or in materials or responses submitted in connection therewith, that the equipment in the subject application is not prohibited from receiving an equipment authorization pursuant to § 2.903, and the equipment certification or modification was granted, if the Commission subsequently determines that the equipment is covered communications equipment, the Commission will revoke such authorization.

(1) If the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau determine that particular authorized equipment is covered communications equipment, and that the certification application for that equipment contained a false statement or representation that the equipment was not covered communications equipment, they will provide written notice to the grantee that a revocation proceeding is being initiated and the grounds under consideration for such revocation.

(2) The grantee will have 10 days in which to respond in writing to the reasons cited for initiating the revocation proceeding. The Office of Engineering and Technology and the Public Safety and Homeland Security Bureau will then review the submissions, request additional information as may be appropriate, and make their determination as to whether to revoke the authorization, providing the reasons for such decision.

■ 13. Amend § 2.1033 by:

■ a. Revising paragraph (b)(1);

■ b. Redesignating paragraphs (b)(2) through (14) as paragraphs (b)(5) through (17), and adding new paragraphs (b)(2) through (4);

■ c. Revising paragraph (c)(1);

■ d. Redesignating paragraphs (c)(2) through (21) as paragraphs (c)(5)

through (24), and adding new paragraphs (c)(2) through (4).

The revisions and additions read as follows:

§ 2.1033 Application for Certification.

* * * * *

(b) * * *

(1) The full name, mailing address and physical address (if different from mailing address), email address, and telephone number of:

(i) The applicant for certification; and

(ii) The applicant's agent for service of process in the United States for matters relating to the authorized equipment.

(2) A written and signed certification that, as of, the filing date of the notice, the equipment to which the change applies is not prohibited from receiving an equipment authorization pursuant to § 2.903;

(3) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment; and

(4) The written and signed certifications required by § 2.911(d)(7).

* * * * *

(c) * * *

(1) The full name, mailing address and physical address (if different from mailing address), email address, and telephone number of:

(i) The applicant for certification; and

(ii) The applicant's agent for service of process in the United States for matters relating to the authorized equipment.

(2) A written and signed certification that, as of the filing date of the notice, the equipment to which the change applies is not prohibited from receiving an equipment authorization pursuant to § 2.903.

(3) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment.

(4) The written and signed certifications required by § 2.911(d)(7).

* * * * *

■ 14. Amend § 2.1043 by revising paragraphs (b)(2) and (3) to read as follows:

§ 2.1043 Changes in certificated equipment.

* * * * *

(b) * * *

(2) A Class II permissive change includes those modifications which degrade the performance characteristics as reported to the Commission at the time of the initial certification. Such degraded performance must still meet the minimum requirements of the applicable rules.

(i) When a Class II permissive change is made by the grantee, the grantee shall provide:

(A) Complete information and the results of tests of the characteristics affected by such change;

(B) A written and signed certification expressly stating that, as of the filing date, the equipment subject to the permissive change is not prohibited from receiving an equipment authorization pursuant to § 2.903;

(C) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment;

(D) The full name, mailing address and physical address (if different from mailing address), email address, and telephone number of the grantee's designated agent for service of process in the United States for matters relating to the authorized equipment; and

(E) The written and signed certifications required by § 2.911(d)(7).

(ii) The modified equipment shall not be marketed under the existing grant of certification prior to acknowledgement that the change is acceptable.

(3) A Class III permissive change includes modifications to the software of a software defined radio transmitter that change the frequency range, modulation type or maximum output power (either radiated or conducted) outside the parameters previously approved, or that change the circumstances under which the transmitter operates in accordance with Commission rules.

(i) When a Class III permissive change is made, the grantee shall provide:

(A) A description of the changes and test results showing that the equipment complies with the applicable rules with the new software loaded, including compliance with the applicable RF exposure requirements.

(B) A written and signed certification expressly stating that, as of the date of the filing, the equipment subject to the permissive change is not prohibited from receiving an equipment authorization pursuant to § 2.903;

(C) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment;

(D) The full name, mailing address and physical address (if different from mailing address), email address, and telephone number of the grantee's designated agent for service of process in the United States for matters relating to the authorized equipment; and

(E) The written and signed certifications required by § 2.911(d)(7).

(ii) The modified software shall not be loaded into the equipment, and the equipment shall not be marketed with the modified software under the existing grant of certification, prior to acknowledgement that the change is acceptable.

(iii) Class III changes are permitted only for equipment in which no Class II changes have been made from the originally approved device.

* * * * *

■ 15. Amend § 2.1072 by revising paragraph (a) to read as follows:

§ 2.1072 Limitation on Supplier's Declaration of Conformity.

(a) Supplier's Declaration of Conformity signifies that the responsible party, as defined in § 2.909, has determined that the equipment has been shown to comply with the applicable technical standards and other applicable requirements if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards and other applicable requirements shall not be construed to be a finding by the responsible party with respect to matters not encompassed by the Commission's rules.

* * * * *

PART 15—RADIOFREQUENCY DEVICES

■ 18. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 19. Amend § 15.103 by revising the introductory text and adding paragraph (j) to read as follows:

§ 15.103 Exempted devices.

Except as provided in paragraph (j) of this section, the following devices are subject only to the general conditions of operation in §§ 15.5 and 15.29, and are exempt from the specific technical standards and other requirements contained in this part. The operator of the exempted device shall be required to stop operating the device upon a finding by the Commission or its representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected. Although not mandatory, it is strongly recommended that the manufacturer of an exempted device endeavor to have

the device meet the specific technical standards in this part.

* * * * *

(j) Notwithstanding other provisions of this section, the rules governing certification apply to any equipment produced by any entity identified on the Covered List, as established pursuant to § 1.50002 of this chapter, as producing covered communications equipment.

* * * * *

[FR Doc. 2022–28263 Filed 2–3–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140819687–5583–02; RTID 0648–XC734]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2022–2023 Commercial Trip Limit Reduction for Spanish Mackerel in the Atlantic Southern Zone

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit for the Atlantic migratory group of Spanish mackerel in the southern zone of the Atlantic exclusive economic zone (EEZ) to 1,500 lb (680 kg) in round or gutted weight per day. This commercial trip limit reduction is necessary to increase the socioeconomic benefits of the fishery.

DATES: This temporary rule is effective from 6 a.m. eastern time on February 4, 2023, until 12:01 a.m. eastern time on March 1, 2023.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Atlantic EEZ includes king mackerel, Spanish mackerel, and cobia on the east coast of Florida, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights described for the Atlantic migratory group of Spanish mackerel (Atlantic Spanish mackerel) apply as either round or gutted weight.

For management purposes, the commercial sector of Atlantic Spanish mackerel is divided into northern and southern zones. The southern zone consists of Federal waters off South Carolina, Georgia, and the east coast of Florida, as specified in 50 CFR 622.369(b)(2)(ii). The southern zone boundaries for Atlantic Spanish mackerel extend from the border of North Carolina and South Carolina, which is a line extending in a direction of 135°34′55″ from true north beginning at 33°51′07.9″ N latitude and 78°32′32.6″ W longitude to the intersection point with the outward boundary of the EEZ, to the border of Miami-Dade and Monroe Counties in Florida at 25°20′24″ N latitude.

The southern zone commercial quota for Atlantic Spanish mackerel is 2,667,330 lb (1,209,881 kg). Seasonally variable trip limits are based on an adjusted commercial quota of 2,417,330 lb (1,096,482 kg). The adjusted commercial quota is calculated to allow continued harvest in the southern zone at a set rate for the remainder of the current fishing year, through February 28, 2023, in accordance with 50 CFR 622.385(b)(2).

As specified at 50 CFR 622.385(b)(1)(ii)(B), after 75 percent of the adjusted commercial quota of Atlantic Spanish mackerel for the southern zone is reached or is projected to be reached, Atlantic Spanish mackerel in or from the EEZ in the southern zone may not be possessed on board or landed from a vessel that has been issued a Federal permit for Atlantic Spanish mackerel in amounts exceeding 1,500 lb (680 kg) per day.

NMFS has determined that 75 percent of the adjusted commercial quota for Atlantic Spanish mackerel for the southern zone will be reached by February 4, 2023. Accordingly, the commercial trip limit of 1,500 lb (680 kg) per day applies to Atlantic Spanish mackerel harvested in or from the EEZ in the southern zone effective from 6 a.m. eastern time on February 4, 2023, until 12:01 a.m. eastern time on March 1, 2023, unless NMFS announces a subsequent change through a notification in the **Federal Register**.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.385(b)(1)(ii)(B), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the commercial trip limit for Atlantic Spanish mackerel have already been subject to notice and public comment, and all that remains is to notify the public of the commercial trip limit reduction. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the time required to provide notice and an opportunity for public comment. There is a need to immediately implement the commercial trip limit reduction to increase the socioeconomic benefits of the fishery. The capacity of the fishing fleet allows for rapid harvest of the commercial quota, and any delay in reducing the commercial trip limit could result in the commercial quota being reached. If the commercial quota is reached, NMFS is required to implement further fishery restrictions, thereby limiting the socioeconomic benefits of the fishery.

For the reasons stated earlier, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of this action.

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

Dated: February 1, 2023.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–02439 Filed 2–1–23; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230119–0020]

RIN 0648–BJ04

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Omega Electronic Mesh Measurement Gauge Method for Measuring Net Mesh Size

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

ACTION: Final rule.

SUMMARY: This rule modifies regulations to add the Omega net mesh measurement gauge as a permissible device for net mesh measurement and to correct regulatory references to gear restrictions. This action is required to allow the use of the Omega gauge as a method for measuring and enforcing net mesh size. Adoption of the Omega gauge, a handheld electronic device, is intended to improve the efficiency, safety, and cost-effectiveness of at-sea net mesh enforcement.

DATES: Effective February 6, 2023.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Policy Analyst, phone: (978) 281–9232; email: *Spencer.Talmage@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Omega Electronic Net Mesh Measurement Gauge

Under section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary of Commerce is authorized to implement regulations that are necessary to carry out any fishery management plan or amendment. We have determined that the adoption of the Omega electronic net mesh measurement gauge (Omega gauge) as an enforcement tool by the U.S. Coast Guard, NMFS Office of Law Enforcement, and other authorized enforcement agencies to measure net mesh sizes of trawl gear will improve the safety, efficiency, and cost-effectiveness of enforcement boardings at-sea. The Omega gauge will assist in the enforcement of gear requirements for all fishery management plans (FMP) administered by the Greater Atlantic Regional Fisheries Office, but is otherwise administrative and will not result in any changes to fishing behavior or obligations of the fishing industry. We are amending the regulations in §§ 648.51(a)(2)(ii) and (b)(4)(v), 648.80(f)(2), and 648.108(a)(2) to add the Omega gauge to trawl net mesh measurement protocols.

The Omega gauge is an automated, handheld electronic device for measuring net mesh size. A full description of its properties is available in the proposed rule (87 FR 59386, September 30, 2022).

Following the recommendation of its Joint Enforcement Committee and Advisory Panel, the New England Fishery Management Council recommended the use of the Omega gauge for net mesh size measurement. Subsequently, the NOAA Office of Law Enforcement and Office of General Counsel reviewed the study results, operations manual, and other information and determined the Omega gauge is suitable for net mesh measurements.

Regulatory Corrections

We are also amending the regulations at §§ 648.80(c)(2)(i) and (ii) and 648.125(a)(2) to correct cross-references that erroneously direct readers to minimum fish sizes in the summer flounder fishery at § 648.104. The correct reference is to summer flounder gear restrictions at § 648.108(a)(2).

The erroneous cross-references contribute to public confusion and potential misunderstanding of gear requirements and restrictions. This correction will ensure accurate information and notice is provided to fishing industry participants of these requirements and restrictions. This correction clarifies compliance requirements and does not impose any new requirements. Correcting this cross-reference error improves clarity and reduces chances for confusion. The gear requirements in the corrected cross-references are longstanding, have been widely and regularly communicated in NMFS' bulletins, permit-holder letters, and website. Based on this NMFS expects that vessels are already in compliance with the gear requirements in the cross-references being corrected.

Comments and Responses

We received no comments on the proposed rule and, as such, no substantive changes from the proposed rule were made as a result of the open comment period.

Classification

NMFS is issuing this rule pursuant to 305(d) of the Magnuson-Stevens Act. Pursuant to Magnuson-Stevens Act section 305(d), this action is necessary to carry out the trawl net mesh measurement regulations for all FMPs administered by the Greater Atlantic Regional Fisheries Office. It provides an efficient, safe, and cost-effective tool for net mesh size enforcement that is expected to lead to improved boardings-at-sea and more effective implementation and enforcement of net mesh size requirements. The NMFS Assistant Administrator has determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable law.

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

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule. The 30-day delay in effective date is unnecessary and would be contrary to the public interest. This rule is not controversial and is easy to understand, as evidenced by the lack of any public comment on this rule. Further, the 30-day delayed effective date is unnecessary because adoption of the Omega gauge by Coast Guard or NMFS authorized officers does not require vessels to change any fishing behavior. The Omega gauge is a tool for authorized officers to use to measure fish mesh size for compliance with current, long-existing mesh size requirements. Delayed use of the Omega gauge is also contrary to the public interest because it is expected to benefit vessel and operator permit holders and vessel crewmembers by improving the efficiency of at-sea boardings without imposing any new costs on them.

Delay in the effective date of this rule would also be unnecessary and contrary to the public interest because current regulations relating to summer flounder vessel net requirements include incorrect references to summer flounder permitted vessel gear requirements. This rule corrects that mistake and thereby provides accurate notice to fishermen of their compliance requirements. Implementing correct information thus avoids any potential confusion and facilitates compliance and fishing practices consistent with the summer flounder fishery management plan's requirements.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule does not contain any information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 23, 2023.

Samuel D. Rauch, III,

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

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.51, revise paragraphs (a)(2)(ii) and (b)(4)(v) to read as follows:

§ 648.51 Gear and crew restrictions.

(a) * * *

(2) * * *

(ii) *Measurement of mesh size.* Mesh size is measured by using an electronic Omega gauge or a wedge-shaped gauge. The Omega gauge has a measuring range of at least 10–300 mm (0.4 inches–11.81 inches), and shall be inserted into the meshes under a pressure or pull of 125 N or 12.75 kg for mesh greater than or equal to 55 mm (2.17 inches) and under a pressure or pull of 50 N or 5.10 kg for mesh less than 55 mm (2.17 inches). The wedge shaped gauge, with a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches) and a thickness of 2.3 mm (0.09 inches), shall be inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater than, 120 mm (4.72 inches). The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes when using either the Omega gauge or the wedge-shaped gauge. The mesh in the regulated portion of the net is measured at least five meshes away from the lacings running parallel to the long axis of the net.

* * * * *

(b) * * *

(4) * * *

(v) *Measurement of twine top mesh size.* Twine top mesh size is measured by using an electronic Omega gauge or a wedge-shaped gauge. The Omega gauge has a measuring range of at least 10–300 mm (0.4 inches–11.81 inches), and shall be inserted into the meshes under a pressure or pull of 125 N or 12.75 kg for mesh greater than or equal to 55 mm (2.17 inches) and under a pressure or pull of 50 N or 5.10 kg for mesh less than 55 mm (2.17 inches). The wedge shaped gauge, with a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches) and a thickness of 2.3 mm (0.09 inches), shall be inserted into the meshes under a pressure or pull of 8 kg (17.64 lb). The mesh size is the average of the measurements of any series of 20 consecutive meshes for twine tops having 75 or more meshes, and 10 consecutive meshes for twine tops having fewer than 75 meshes when using either the Omega gauge or the wedge-shaped gauge. The mesh in the twine top must be measured along the length of the twine top, running parallel to a longitudinal axis, and be at least five meshes away from where the twine top mesh meets the rings, running parallel to the long axis of the twine top.

* * * * *

■ 3. In § 648.80, revise paragraphs (c)(2)(i) and (ii) and (f)(2) introductory text to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(c) * * *

(2) * * *

(i) *Vessels using trawls.* Except as provided in paragraph (c)(2)(iii) of this section, and § 648.85(b)(6), the minimum mesh size for any trawl net not stowed and not available for immediate use as defined in § 648.2, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a sector trip in the MA Regulated Mesh Area, shall be that specified by § 648.108(a), applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond or square mesh applied to the codend of the net, as defined in paragraph (a)(3)(i) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraph (c)(2)(iii) of this section, the minimum mesh size for any sink gillnet, Scottish seine, midwater trawl, or purse seine, not stowed and not available for immediate use as defined in § 648.2, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the MA Regulated Mesh Area, shall be that specified in § 648.108(a). This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(f) * * *

(2) *All other nets.* With the exception of gillnets, mesh size is measured by an electronic Omega gauge or a wedge-shaped gauge. The Omega gauge has a measuring range of at least 10–300 mm (0.4 inches–11.81 inches), and shall be inserted into the meshes under a pressure or pull of 125 N or 12.75 kg for mesh greater than or equal to 55 mm (2.17 inches) and under a pressure or pull of 50 N or 5.10 kg for mesh less than 55 mm (2.17 inches). The wedge shaped gauge, with a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches), and a thickness of 2.3 mm (0.09 inches), shall be inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater, than 120 mm (4.72 inches).

* * * * *

■ 4. In § 648.108, revise paragraph (a)(2) to read as follows:

§ 648.108 Summer flounder gear restrictions.

(a) * * *

(2) Mesh size is measured by using an electronic Omega gauge or a wedge-shaped gauge. The Omega gauge has a measuring range of at least 10–300 mm (0.4 inches–11.81 inches), and shall be inserted into the meshes under a pressure or pull of 125 N or 12.75 kg for mesh greater than or equal to 55 mm (2.17 inches) and under a pressure or pull of 50 N or 5.10 kg for mesh less than 55 mm (2.17 inches). The wedge shaped gauge, with a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches), and a thickness of 2.3 mm (0.09 inches), shall be inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater than, 120 mm (4.72 inches). The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes, when using either the Omega gauge or the wedge-shaped gauge. The mesh in the regulated portion of the net is measured at least five meshes away from the lacings, running parallel to the long axis of the net.

* * * * *

■ 5. In § 648.125, revise paragraph (a)(2) to read as follows:

§ 648.125 Scup gear restrictions.

(a) * * *

(2) *Mesh-size measurement.* Mesh sizes will be measured according to the procedure specified in § 648.108(a)(2).

* * * * *

[FR Doc. 2023–01619 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 24
Monday, February 6, 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 431

[EERE–2022–BT–STD–0014]

RIN 1904–AF39

Energy Conservation Program: Energy Conservation Standards for Small Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of proposed determination and request for comment.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including small electric motors. EPCA also requires the U.S. Department of Energy (''DOE'') to periodically determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would result in significant energy savings. In this notification of proposed determination (''NOPD''), DOE has initially determined that amended energy conservation standards for small electric motors would not be cost-effective, and, thus, is not proposing to amend its energy conservation standards for this equipment. DOE requests comment on this proposed determination and the associated analyses and results.

DATES:

Meeting: DOE will hold a webinar on March 15, 2023, from 1:00 p.m. to 4:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: Written comments and information are requested and will be accepted on or before April 7, 2023.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov,* under by docket number EERE–2022–BT–STD–0014. Follow the instructions for submitting comments.

Alternatively, interested persons may submit comments, identified by docket number EERE–2022–BT–STD–0014, by any of the following methods:

Email: SmallElecMotors2022STD0014@ee.doe.gov. Include the docket number EERE–2022–BT–STD–0014 in the subject line of the message.

Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *www.regulations.gov/docket/EERE–2022–BT–STD–0014.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII, ''Public Participation,'' for further information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2555. Email: *Matthew.Ring@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 286–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Synopsis of the Proposed Determination

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA[3] established the Energy Conservation Program for Certain Industrial Equipment, (42 U.S.C. 6311–6317). These products includes small electric motors (''SEMs''), the subject of this final determination.

DOE is issuing this NOPD pursuant to the EPCA requirement that not later than 3 years after issuance of a determination that standards do not need to be amended, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (NOPR) including new proposed energy conservation standards (proceeding to a final rule, as appropriate).

For this proposed determination, DOE analyzed small electric motors subject to standards specified in 10 CFR 431.446. DOE first analyzed the technological feasibility of more energy efficient SEMs with lower energy use. For those SEMs for which DOE determined higher standards to be technologically feasible, DOE evaluated whether more stringent standards would also be cost effective by conducting preliminary life-cycle cost (''LCC'') and payback period (''PBP'') analyses.

Based on the results of the analyses, summarized in section V of this document, DOE has tentatively determined that more stringent energy conservation standards would not be cost effective. Therefore, DOE has tentatively determined that the current standards for SEMs do not need to be amended.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed determination, as well as some of the historical background relevant to the establishment of standards for SEMs.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part C of EPCA (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes SEMs, the subject of this document. (42 U.S.C. 6311(13)(G)) EPCA directed DOE to prescribe initial test procedures and standards for this equipment. (42 U.S.C. 6317(b))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314; 6317), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313; 6317), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of covered equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(A) and 42 U.S.C. 6295(r)) EPCA directed DOE to establish a test procedure for those SEMs for which DOE determined that energy conservation standards would (1) be technologically feasible and economically justified and (2) result in significant energy savings. (42 U.S.C. 6317(b)(1)) Manufacturers of covered equipment must use the Federal test procedures as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)) The DOE test procedures for small electric motors appear at title 10 of the Code of Federal Regulations (''CFR'') part 431, subpart X.

EPCA further directed DOE to prescribe energy conservation standards for those SEMs for which test procedures were established. (42 U.S.C. 6317(b)(2)) Additionally, EPCA prescribed that any such standards shall not apply to any SEM which is a component of a covered product under 42 U.S.C. 6292(a) or covered equipment under 42 U.S.C. 6311 of EPCA. (42 U.S.C. 6317(b)(3)) Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and 42 U.S.C. 6316(b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (*See* 42 U.S.C. 6316(a); 42 U.S.C. 6297))

DOE must periodically review its already established energy conservation standards for covered equipment no later than 6 years from the issuance of a final rule establishing or amending a standard for covered equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)) This 6-year look-back provision requires that DOE publish either a determination that standards do not need to be amended or a NOPR, including new proposed standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[3] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).

U.S.C. 6295(m)(1)) EPCA further provides that, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(2))

A determination that amended standards are not needed must be based on consideration of whether amended standards will result in significant conservation of energy, are technologically feasible, and are cost effective as described in 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) If the Secretary prescribes any new or amended energy conservation standard for any type (or class) of covered equipment, such standards shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) Among the factors DOE considers in evaluating whether a proposed standard level is economically justified includes whether the proposed standard at that level is cost-effective, as defined under 42 U.S.C. 6295(o)(2)(B)(i)(II). Under 42 U.S.C. 6295(o)(2)(B)(i)(II), an evaluation of cost-effectiveness requires DOE to consider savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment that are likely to result from the standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(n)(2) and 42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE is publishing this NOPD in satisfaction of the 3-year review requirement in EPCA following a determination that standards need not be amended. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(3)(B))

B. Background

1. Current Standards

The current energy conservation standards for SEMs are located in title 10 CFR 431.446, and are presented in Table II–1 and Table II–2.

TABLE II–1—FEDERAL ENERGY CONSERVATION STANDARDS FOR POLYPHASE SMALL ELECTRIC MOTORS

Motor horsepower/standard kilowatt equivalent	Average full load efficiency		
	Open motors (number of poles)		
	6	4	2
0.25/0.18	67.5	69.5	65.6
0.33/0.25	71.4	73.4	69.5
0.5/0.37	75.3	78.2	73.4
0.75/0.55	81.7	81.1	76.8
1/0.75	82.5	83.5	77.0
1.5/1.1	83.8	86.5	84.0
2/1.5	N/A	86.5	85.5
3/2.2	N/A	86.9	85.5

TABLE II–2—FEDERAL ENERGY CONSERVATION STANDARDS FOR CAPACITOR-START INDUCTION-RUN AND CAPACITOR-START CAPACITOR-RUN SMALL ELECTRIC MOTORS

Motor horsepower/standard kilowatt equivalent	Average full load efficiency		
	Open motors (number of poles)		
	6	4	2
0.25/0.18	62.2	68.5	66.6
0.33/0.25	66.6	72.4	70.5
0.5/0.37	76.2	76.2	72.4
0.75/0.55	80.2	81.8	76.2
1/0.75	81.1	82.6	80.4
1.5/1.1	N/A	83.8	81.5
2/1.5	N/A	84.5	82.9
3/2.2	N/A	N/A	84.1

2. History of Standards Rulemakings for Small Electric Motors

On March 9, 2010, DOE established the current energy conservation standards for small electric motors. 75 FR 10874 (''March 2010 Final Rule''). On January 19, 2021, DOE published a notice of final determination for small electric motors. 86 FR 4885 (''January 2021 Final Determination'') that these standards need not be amended. In the January 2021 Final Determination, while DOE determined that more stringent standards would be technologically feasible, DOE also determined that more stringent energy conservation standards would not be cost effective. 86 FR 4885, 4906. Therefore, DOE determined that the current standards for SEMs did not need to be amended. *Id.*

In support of the present review of the SEM energy conservation standards, DOE published a request for information, which identified various issues on which DOE sought comment to inform its determination of whether the standards need to be amended. 87 FR 23471; April 20, 2022 (''April 2022 RFI''). On May 11, 2022, DOE published

a notice which extended the comment period for the April 2022 RFI to no later than June 20, 2022. 87 FR 28782.

DOE received comments in response to the April 2022 RFI from the interested parties listed in Table II–3.

TABLE II–3—APRIL 2022 RFI WRITTEN COMMENTS

Commenter(s)	Reference in this NOPD	Comment number in the docket	Commenter type
Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') and Association of Home Appliance Manufacturers (''AHAM'').	AHRI and AHAM	11	Trade Association.
National Electrical Manufacturers Association	NEMA	8	Trade Association.
California Investor-Owned Utilities (''CA IOUs'')—Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison.	CA IOUs	9	Utilities.
QM Power	QM Power	10	Manufacturer.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[4]

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430 subpart C, appendix A (''appendix A''), applicable to covered equipment under 10 CFR 431.4, DOE notes that it is deviating from the provision in appendix A regarding the comment period for a NOPR. Section 6(f)(2) of appendix A specifies that the length of the public comment period for a NOPR will not be less than 75 days. For this proposed determination, DOE has opted to instead provide a 60-day comment period. As stated previously, DOE requested comment in the April 2022 RFI on the technical and economic analyses that would be used to determine whether a more stringent standard would result in significant conservation of energy and is technologically feasible and economically justified. DOE has determined that a 60-day comment period, in conjunction with the prior April 2022 RFI, provides sufficient time for interested parties to review the proposed rule and develop comments.

III. General Discussion

DOE developed this proposed determination after considering comments, data, and information from interested parties that represent a variety of interests. This notice also addresses issues raised by these commenters.

A. Equipment Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered equipment into product classes by the type of energy used or by capacity or other performance-related features that justify differing standards. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)) The equipment classes for this proposed determination are discussed in further detail in section IV.A.4 of this document. This proposed determination covers equipment defined as a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987, including IEC metric equivalent motors. 10 CFR 431.442.[5] The scope of coverage is discussed in further detail in section IV.A.1 of this document.

B. Test Procedure

As noted previously, EPCA directed DOE to establish a test procedure for those SEMs for which DOE determined that energy conservation standards would (1) be technologically feasible and economically justified and (2) result in significant energy savings. (42 U.S.C. 6317(b)(1)) EPCA also sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6314(a)) Manufacturers of covered equipment must use these test procedures to certify to DOE that their product complies with energy conservation standards and to quantify the efficiency of their product. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s); and 42 U.S.C. 6314(d)) DOE's current energy conservation standards for SEMs are expressed in terms of average full load efficiency. (*See* 10 CFR 431.446)

DOE adopted test procedures for SEMs in July of 2009 (74 FR 32059) and subsequently amended them in May of 2012. 77 FR 26608. Most recently, on January 4, 2021, DOE published a final rule amending test procedures for SEMs. 86 FR 4. In that final rule, DOE further harmonized its test procedures with industry practice by updating a currently incorporated testing standard to reference that standard's latest version, incorporating a new industry testing standard that manufacturers would be permitted to use in addition to those industry standards currently incorporated by reference, and harmonizing certain test conditions with current industry standards to improve the comparability of test results for SEMs.

C. Technological Feasibility

1. General

In evaluating potential amendments to energy conservation standards, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the determination. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. 10 CFR 431.4; sections 6(b)(3)(i) and 7(b)(1) of appendix A to 10 CFR part 430 subpart C (''Process Rule'').

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional

[4] The parenthetical reference provides a reference for information located in the docket. (Docket No. EERE–2022–BT–STD–0014, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

[5] The term ''IEC'' refers to the International Electrotechnical Commission.

screening criteria: (1) practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety; and (4) unique-pathway proprietary technologies. 10 CFR 431.4; sections 6(b)(3)(ii)–(v) and 7(b)(2)–(5) of the Process Rule. Section IV.A.3 of this document discusses the results of the screening analysis for SEMs, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this proposed determination.

2. Maximum Technologically Feasible Levels

As when DOE proposes to adopt an amended standard for a type or class of covered equipment, in this analysis it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such a product. (42 U.S.C. 6316(a); 42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for SEMs, using the design parameters for the most efficient products available on the market or in working prototypes. The max-tech levels that DOE determined for this analysis are described in section IV.B of this proposed determination.

D. Energy Savings

1. Determination of Savings

As explained in section III.D.2 of this document, DOE did not separately evaluate the national energy savings of the considered amended standards because it has tentatively determined that the potential standards would not be cost-effective as defined in EPCA.[6] (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A); 42 U.S.C. 6295(n)(2))

2. Significance of Savings

In determining whether amended standards are needed, DOE must consider whether such standards will result in significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(A)) The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking. For example, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

As discussed in section V.C.2 of this document, DOE has determined that amended standards would not satisfy the cost-effectiveness criterion as required by EPCA when determining whether to amend its standards for a given covered product or equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(C)) See also section IV.E of this document (discussing in greater detail DOE's analysis of the available data in reaching this determination). Consequently, DOE did not separately determine whether the potential energy savings would be significant for the purpose of 42 U.S.C. 6295(n)(2).

E. Cost Effectiveness

Under EPCA's six-year-lookback review provision for existing energy conservation standards at 42 U.S.C. 6295(m)(1), cost-effectiveness of potential amended standards is a relevant consideration both where DOE proposes to adopt such standards, as well as where it does not. In considering cost-effectiveness when making a determination of whether existing energy conservation standards do not need to be amended, DOE considers the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(m)(1)(A)(referencing 42 U.S.C. 6295(n)(2))) Additionally, any new or amended energy conservation standard prescribed by the Secretary for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. 42 U.S.C. 6295(o)(2(A) Cost-effectiveness is one of the factors that DOE must ultimately consider under 42 U.S.C. 6295(o)(2)(B) to support a finding of economic justification, if it is determined that amended standards are appropriate under the applicable statutory criteria. (42 U.S.C. 6295(o)(2)(B)(i)(II)))

As discussed in section V.C.2 of this document, DOE has determined that amended standards would not satisfy the cost-effectiveness criterion as required by EPCA when determining whether to amend its standards for a given covered product or equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(C)) See also section IV.E of this document (discussing in greater detail DOE's analysis of the available data in reaching this determination).

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this proposed determination with regard to SEMs. Separate subsections address each component of DOE's analyses. DOE used several analytical tools to estimate the impact of potential energy conservation standards. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential energy conservation standards. The NIA uses a second spreadsheet set that provides shipments projections and calculates NES and net present value of total consumer costs and savings expected to result from potential energy conservation standards. These spreadsheet tools are available on the website: *www.regulations.gov/docket/EERE-2022-BT-STD-0014.*

In response to the April 2022 RFI, DOE received several comments to maintain the current standards. NEMA encouraged DOE to reach the same conclusion as the previous rulemaking (*i.e.,* the January 2021 Final Determination) and propose a determination again. NEMA stated that in their observation, there have been no significant technology or market changes for these products since the January 2021 determination that might cause a change in conclusions. (NEMA, No. 8 at p. 2) CA IOUs commented that there is limited opportunity for additional energy efficiency in the current scope of SEMs. (CA IOUs, No. 9 at p. 1) AHRI and AHAM commented that they see no reason to move forward with a full-blown rulemaking as the

[6] The March 2010 Final Rule estimated the national energy savings achieved by the current energy conservation standards to be 2.20 quads of primary energy savings (*i.e.,* 0.29 quad at TSL 4b for polyphase SEMs and 1.91 quad at TSL 7 for single phase SEMs). The March 2010 Final Rule also estimated that the TSL resulting in the maximum national energy savings would provide a total of 2.70 quads of primary energy savings (*i.e.,* 0.37 quad at TSL 7 for polyphase SEMs and 2.33 quad at TSL 8 for single phase SEMs). 75 FR 10874, 10916 (March 9, 2010). The March 2010 Final Rule also estimated that the TSL directly above the current energy conservation standards would be 2.67 quads of primary energy savings (*i.e.,* 0.34 quad at TSL 5 for polyphase SEMs and 2.33 quad at TSL 8 for single phase SEMs). Although DOE did not separately evaluate the potential energy savings under the considered amended standards, this previous analysis, which also relied on the technology options described in section IV.A.2 of this document, indicates an lower limit of approximately 0.47 quads of primary energy ($2.67 - 2.20 = 0.47$) and an upper limit of approximately 0.5 quad of primary energy savings ($2.70 - 2.20 = 0.50$)

market and technologies have not changed substantially, and recommended DOE issue a determination not to amend standards. (AHRI and AHAM, No. 11 at p. 6) In this notice, DOE is proposing a determination not to amend the current standards because of the following when compared to the January 2021 Final Determination: (1) the SEM efficiencies available on the market remain unchanged, (2) there have been no significant technology updates; (3) incremental costs are not expected to change significantly; and (4) the life-cycle cost analysis inputs of the 2021 Final Determination remain applicable. As such, in this NOPD, DOE has tentatively determined that the analysis and conclusions from the January 2021 Final Determination continue to apply, and therefore more stringent SEM standards would not be cost-effective (*i.e.,* negative LCC results at all analyzed efficiency levels). Further details on this tentative conclusion is provided in the following sections.

Separately, AHAM & AHRI commented that EPCA's timeline for reviewing determination rulemakings is not realistic, in that it does not allow enough time for the market to shift in order for DOE to assess whether more stringent standards might be justified. (AHRI and AHAM, No. 11 at p. 6–7) EPCA requires that DOE must periodically review its already established energy conservation standards. Specifically, EPCA requires that, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(3)(B)) As DOE is bound by EPCA's requirements, DOE is publishing this NOPD in satisfaction of the 3-year review requirement in EPCA.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this proposed determination include (1) a determination of the scope and equipment classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of SEMs. The key findings of DOE's market assessment are summarized in the following sections.

1. Scope of Coverage

In this analysis, DOE relied on the definition of SEMs in 10 CFR 431.442, which defines SEMs as a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987, including IEC metric equivalent motors. Any equipment meeting the definition of SEMs is included in DOE's scope of coverage, though all products within the scope of coverage may not be subject to standards.

DOE regulates the energy efficiency of those SEMs that fall within three topologies (*i.e.,* arrangements of component parts): capacitor-start induction-run (''CSIR''), capacitor-start capacitor-run (''CSCR''), and polyphase motors. See 10 CFR 431.446. EPCA prescribes that standards for SEMs do not apply to any SEM which is a component of a covered product or covered equipment under EPCA. (42 U.S.C. 6317(b)(3)) DOE's current energy conservation standards only apply to SEMs manufactured alone or as a component of another piece of non-covered equipment. 10 CFR 431.446(a).

DOE received several comments regarding scope. QM Power noted that while the narrow scope of the current SEM definition does not allow for much efficiency improvement, it also does not align with current practices in industry in that efficiency of larger equipment can be improved by using higher efficiency motors (including the addition of variable speed). QM Power recommended that the definition of SEMs or small non-small-electric-motors electric motors (''SNEMs'') [7] would better suit more efficient applications, including permanent magnet alternating current (''PMAC''), permanent magnet synchronous motors (''PMSM''), electronically commutated motor (''ECM''), and other similar technologies. (QM Power, No. 10 at pp. 2–3, 6) Separately, CA IOUs agreed with DOE in including SNEMs within scope of the electric motors rulemaking. (CA IOUs, No. 9 at pp. 1–2)

AHRI and AHAM urged DOE to maintain the current scope of the energy conservation standards and test procedures for SEMs. In particular, they noted that they would oppose inclusion in scope special/definite purpose motors because these motors are already part of finished products that are currently regulated. They also noted that applying standards to these motors adds costs and reduces choices and does little if anything to further energy savings goals. (AHRI and AHAM, No. 11 at pp. 1–3) In addition, AHRI and AHAM recommended that DOE should take a finished-product approach to energy efficiency regulations. They urged DOE to maintain the statutory exemption provided for SEMs which are a component of a covered product (42 U.S.C. 6317(b)(3)) Further, they noted that more efficient motors would likely be larger and heavier, and therefore there would be space constraints that would prevent OEMs from using larger motors if standards are updated. (AHRI and AHAM, No. 11 at pp. 3–5) Finally, AHAM & AHRI commented that should DOE decide to include definite and special purpose motors under the scope of SEMs or electric motors, they do not agree that a different policy should apply to SEMs that are imported inside a covered product versus a small electric motor imported on its own but destined for or used in covered products or equipment manufactured domestically, as it would place a disincentive on domestic manufacturing. (AHRI and AHAM, No. 11 at p. 5)

As previously stated in section III.A of this document, the scope of this proposed determination pertains only to equipment meeting the definition of small electric motor, as codified in 10 CFR 431.442, which includes general purpose single speed induction motors. *See* 42 U.S.C. 6311(13)(G) and 10 CFR 431.442. Special purpose and definite purpose motors are not general purpose motors and therefore are not covered under the statutory or regulatory definition of ''small electric motor'' and are not ''small electric motors'' under DOE's statutory or regulatory framework.

Single-speed induction motors, as delineated and described in MG1–1987, fall into five categories: split-phase, shaded-pole, capacitor-start (both CSIR and CSCR), PSC, and polyphase. Of these five motor categories, DOE determined in the March 2010 Final Rule that only CSIR, CSCR, and polyphase motors were able to meet the relevant performance requirements in

[7] In the separate electric motors energy conservation standards rulemaking, DOE analyzed SNEMs, *i.e.,* additional small-size electric motors which do not meet the definition of SEMs. See Docket No. EERE–2020–BT–STD–0007.

NEMA MG1–1987 and fell within the general purpose alternating current motor category, as indicated by the listings found in manufacturers' catalogs. 75 FR 10874, 10882–10883. Therefore, for this proposed determination, DOE only considered the currently regulated SEMs subject to energy conservation standards.

Further, EPCA provides that standards shall not apply to any SEM which is a component of a covered product covered equipment under section. (42 U.S.C. 6317(b)(3)) DOE has evaluated the scope of the SEM standards in this proposed determination in accordance with the direction prescribed in EPCA. With respect to the comments regarding or implicating electric motors outside the scope of the SEMs definition, such discussion is outside the scope of this proposed determination. More information on the scope of the energy conservation standards for electric motors covered under 10 CFR part 431, subpart B is provided in a separate rulemaking, under the docket number EERE–2020–BT–STD–0007.

2. Technology Options

In the April 2022 RFI, DOE requested comment on any changes to the technology options since the January 2021 Final Determination that could affect whether DOE could propose a ''no-new-standards'' determination. DOE also sought comment on whether there were any updated or new technology options that DOE should consider in its analysis. 87 FR 23471, 23473.

QM Power commented that high-efficiency technologies are readily available in today's market, including brushless direct current (''BLDC''), PMAC, PMSM, ECMs, and are growing quickly as viable alternatives to more-mature technologies. QM Power provided examples of studies where upgrading a shaded-pole motor with a Q-Sync motor provided 79 percent savings in power consumption, and upgrading an ECM design with a Q-Sync motor provided 45 percent savings in power consumption. (QM Power, No. 10 at p. 5) QM Power also noted that their Q-Sync motors exceed current DOE standards for SEMs by 15–27 percent, but this technology doesn't fall under any current DOE definition. Accordingly, they recommended including PMAC, PMSM and similar technologies under the current definition of SEM (or SNEMs); or create another category which allows participation of highly energy efficient motors. (QM Power, No. 10 at p. 2)

NEMA stated that in their observation, there have been no significant technology or market changes for these products since the previous determination. (NEMA, No. 8 at p. 2) CA IOUs commented that they are unaware of any market changes that warrant tighter energy conservation standards. (CA IOUs, No. 9 at p. 1)

As discussed previously, the scope of this proposed determination pertains only to equipment meeting the definition of small electric motor, as codified in 10 CFR 431.442, which includes general purpose single speed induction motors. *See* 42 U.S.C. 6311(13)(G) and 10 CFR 431.442. Therefore, the scope of this determination does not include any non-induction electric motors, such as those suggested by QM Power.

Otherwise, for this evaluation, DOE considered each of the technology options analyzed in the January 2021 Final Determination and examined any changes to the availability of these design options since the publication of the January 2021 Final Determination. In addition, DOE also researched whether there were any new technologies that could improve the efficiency of SEMs.

To perform this analysis, DOE created a database of currently available SEMs to assess whether the market has changed since the January 2021 Final Determination (*i.e.,* ''2022 SEM Database''). The 2022 SEM Database was created from manufacturer catalog data, and included key information including motor efficiency. DOE collected performance data from product literature and catalogs distributed by four major motor manufacturers: ABB (which includes the manufacturer formerly known as Baldor Electric Company), Nidec Motor Corporation (which includes the US Motors brand), Regal-Beloit Corporation (which includes the Marathon and Leeson brands), and WEG Electric Motors Corporation.[8] Based on market information from the Low-Voltage Motors World Market Report,[9] DOE estimates that the four major motor manufacturers noted above comprise the majority of the U.S. SEM market and are consistent with the motor brands considered in the January 2021 Final Determination and March 2010 Final Rule.

Based on a review of the 2022 SEM Database, DOE found that the efficiencies of SEMs on the market have stayed largely the same since the January 2021 Final Determination. Therefore, DOE has tentatively determined that because SEM efficiencies haven't changed, no significant technical advancements in induction motor technology pertaining to potential higher SEM efficiency have been made since publication of the January 2021 Final Determination. Further, no comments suggested additional technology options that were not previously considered in the January 2021 Final Determination. Accordingly, DOE maintains the same technology options for review in this determination as from the January 2021 Final Determination.

In summary, for this analysis, DOE considers the technology options shown in Table IV–1. Detailed descriptions of these technology options can be found in chapter 3 of the January 2021 Final Determination TSD.

TABLE IV–1—JANUARY 2021 FINAL DETERMINATION SMALL ELECTRIC MOTORS TECHNOLOGY OPTIONS

Type of loss to reduce	Technology option applied
I^2R Losses	Use a copper die-cast rotor cage. Reduce skew on conductor cage. Increase cross-sectional area of rotor conductor bars. Increase end ring size. Changing gauges of copper wire in stator. Manipulate stator slot size.

[8] ABB (Baldor-Reliance): Online Manufacturer Catalog, accessed January 3, 2019. Available at *https://www.baldor.com/catalog#category=2*; Nidec: Online Manufacturer Catalog, accessed December 26, 2018. Available at *ecatalog.motorboss.com/Catalog/Motors/ALL;* Regal (Marathon and Leeson): Online Manufacturer Catalog, accessed December 27, 2018. Available at *https://www.regalbeloit.com/Products/Faceted-Search?category=Motors&brand=Leeson,Marathon%20Motors*; WEG: Online Manufacturer Catalog, accessed December 24, 2018. Available at *https://catalog.wegelectric.com/.*

[9] Based on the Low-Voltage Motors, World Market Report (OMDIA Report November 2020) Table 1: Market Share Estimates for Low-voltage Motors: Americas; Suppliers' share of the Market:2019.

TABLE IV–1—JANUARY 2021 FINAL DETERMINATION SMALL ELECTRIC MOTORS TECHNOLOGY OPTIONS—Continued

Type of loss to reduce	Technology option applied
Core Losses	Decrease radial air gap. Change run-capacitor rating. Improve grades of electrical steel. Use thinner steel laminations. Anneal steel laminations. Add stack height (*i.e.,* add electrical steel laminations). Use high-efficiency lamination materials. Use plastic bonded iron powder.
Friction and Windage Losses	Use better bearings and lubricant. Install a more efficient cooling system.

DOE requests comment on its tentative conclusion that there have been no significant technical advancements since the last rulemaking, and that the technology options developed for the January 2021 Final Determination are still applicable.

3. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) Technological feasibility. Technologies that are not incorporated in commercial products or in commercially viable, existing prototypes will not be considered further.

(2) Practicability to manufacture, install, and service. If it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) Impacts on product utility. If a technology is determined to have a significant adverse impact on the utility of the product to subgroups of consumers, or result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) Safety of technologies. If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) Unique-pathway proprietary technologies. If a technology has proprietary protection and represents a unique pathway to achieving a given efficiency level, it will not be considered further, due to the potential for monopolistic concerns.

10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

In summary, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

DOE did not receive any comments on the screening analysis. Further, as discussed in section IV.A.2, DOE has tentatively determined that no significant technical advancements in induction motor technology have been made since the January 2021 Final Determination. Finally, a review of the 2022 SEM Database did not identify any new technology options that should be screened in.

Accordingly, DOE is maintaining the screening analysis from the January 2021 Final Determination, which screened out three of the technology options presented in Table IV.1: reducing the air gap below 0.0125 inches, amorphous metal laminations, and plastic bonded iron powder (''PBIP''). 86 FR 4885, 4894. DOE finds that all of the remaining technology options meet the other screening criteria (*i.e.,* practicable to manufacture, install, and service and do not result in adverse impacts on consumer utility, product availability, health, or safety). For additional details, see chapter 4 of the January 2021 Final Determination TSD.

4. Equipment Classes

In general, when evaluating and establishing energy conservation standards, DOE divides the covered product into classes by (1) the type of energy used, (2) the capacity of the product, or (3) any other performance-related feature that affects energy efficiency and justifies different standard levels, considering factors such as consumer utility. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)) For the analysis in the January 2021 Final Determination, DOE considered the 62 equipment classes that it already regulates based on motor category, horsepower rating, and number of poles. 86 FR 4885, 4892–4893.

The first characteristic used to establish equipment classes is phase count. Polyphase and single-phase equipment classes are used to differentiate motors based on the fundamental differences in how the two types of motors operate. 10 CFR 431.446(a). Second, equipment classes are differentiated by the topology of single-phase motors. 10 CFR 431.446(a). DOE identified two topologies of single-phase motors meeting the statutory definition of small electric motors: CSIR and CSCR. CSIR and CSCR motors both utilize a capacitor (''start-capacitor'') and two windings (''start-winding'' and ''run-winding''). Third, the current energy conservation standards also differentiate classes based on the number of poles in a motor. 10 CFR 431.446(a). The number of poles in an induction motor determines the synchronous speed (*i.e.,* revolutions per minute). Finally, DOE employs motor horsepower as an equipment class setting factor under the current energy conservation standards. 10 CFR 431.446(a). Average full load efficiency generally correlates with motor horsepower (*e.g.,* a 3-horsepower motor is usually more efficient than a ¼-horsepower motor). *Id.*

For this analysis, DOE did not identify any other performance-related features affecting consumer utility or efficiency applying to the motors falling within the scope of this proposed determination. Further, DOE did not receive any comments suggesting updating the equipment classes considered in the January 2021 Final Determination. Accordingly, DOE has maintained the same equipment classes from the January 2021 Final Determination, presented in Table IV.2.

TABLE IV–2—JANUARY 2021 FINAL DETERMINATION SUMMARY OF SMALL ELECTRIC MOTOR EQUIPMENT CLASSES

Motor topology	Pole configuration	Motor output power (hp)
Single-phase:		
CSIR	2, 4, 6	0.25–3
CSCR	2, 4, 6	0.25–3
Polyphase	2, 4, 6	0.25–3

B. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of SEMs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency equipment, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each equipment class, DOE estimates the baseline cost, as well as the incremental cost for the product/equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

1. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) relying on observed efficiency levels in the market (*i.e.,* the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.,* the design-option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing products (in other words, based on the range of efficiencies and efficiency level ''clusters'' that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual products on the market) may be extended using the design option approach to interpolate to define ''gap fill'' levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the ''max-tech'' level (particularly in cases where the ''max tech'' level exceeds the maximum efficiency level currently available on the market).

In the January 2021 Final Determination, DOE relied on the design-option approach, consistent with the March 2010 Final Rule. In the design option approach, DOE considered efficiency levels corresponding to motor designs that met or exceeded the efficiency requirements of the current energy conservation standards at 10 CFR 431.446. 86 FR 4885, 4895–4898. In the April 2022 RFI, DOE requested comments on whether the methodologies employed in the January 2021 Final Determination engineering analysis, specifically regarding the adoption of the motor designs and associated efficiency levels considered in the March 2010 Final Rule analysis as the basis for the final determination, still apply. 87 FR 23471, 23473. In response, NEMA stated that in their observation, the methodologies employed by DOE in the previous determination engineering analysis still apply. (NEMA, No. 8 at p. 3) DOE did not receive any other comments.

As discussed in section IV.2. of this document, the 2022 SEM Database determined no significant technical advancements in induction motor technology that could lead to more efficient designs relative to the analysis considered in the January 2021 Final Determination (which relied on the motors modeled for the March 2010 Final Rule). Further, DOE tentatively determined that the available range of efficiency values of SEMs on the market in the 2022 SEM Database have stayed largely the same since the January 2021 Final Determination. Accordingly, DOE is tentatively considering the methodologies employed in the January 2021 Final Determination engineering analysis for this determination.

Therefore, consistent with the January 2021 Final Determination, for the engineering analysis, DOE considered one representative equipment class for each of the CSCR and polyphase motor topologies. 86 FR 4885, 4895–4896. Equipment classes in both the polyphase and CSCR topologies were directly analyzed due to the fundamental differences in their starting and running electrical characteristics. Similar to the conclusions from the January 2021 Final Determination, DOE did not consider a CSIR motor representative unit. 86 FR 4885, 4895. This is because the minimum energy conservation standards adopted in the March 2010 Final Rule (and which are established in 10 CFR 431.446(a)) represented the maximum technologically feasible efficiency for CSIR motors, and DOE was unable to identify any additional design options that passed the screening criteria that would indicate that a motor design meeting a higher efficiency level is technologically feasible and commercially viable. *Id.*

Accordingly, the proposed representative equipment classes are outlined in Table IV–3.

TABLE IV–3—JANUARY 2021 FINAL DETERMINATION REPRESENTATIVE EQUIPMENT CLASSES

Representative unit No.	Motor topology	Pole configuration	Motor output power (hp)
1	Polyphase	4	1.00
2	Single-phase CSCR	4	0.75

Given that DOE was unable to identify any additional design options for improving efficiency that passed the screening criteria and were not already considered in the January 2021 Final Determination engineering analysis, DOE analyzed the same motor designs that were developed for the January 2021 Final Determination. 86 FR 4885, 4896. For each representative equipment class, DOE established an efficiency level for each motor design that exhibited improved efficiency over the baseline design. DOE considered the current minimum energy conservation standards as the baseline efficiency levels for each representative equipment class. *Id.*

For higher efficiency levels, DOE considered both space-constrained and non-space-constrained scenarios, consistent with the January 2021 Final Determination.[10] 86 FR 4885, 4896–4897. The design levels prepared for the space-constrained scenario included baseline and intermediate levels, a level for a design using a copper rotor, and a max-tech level with a design using a copper rotor and exotic core steel. The high-efficiency space-constrained designs incorporate copper rotors and exotic core steel in order to meet comparable levels of efficiency to the high-efficiency non-space-constrained designs while meeting the parameters for minimally increased stack length. The design levels created for the non-space-constrained scenario corresponded to the same efficiency levels created for the space-constrained scenario. *Id.*

2. Cost Analysis

The cost analysis portion of the Engineering Analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including the availability and reliability of public information, characteristics of the regulated product and the availability and timeliness of purchasing the equipment on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles a commercially available product, component-by-component, to develop a detailed bill of materials for the product.
- *Catalog teardowns:* In lieu of physically deconstructing a product, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials (''BOM'') for the product.
- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (*e.g.,* large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the January 2021 Final Determination, DOE relied on a standard BOM that was constructed for the March 2010 Final rule for each motor design that includes direct material costs and labor time estimates along with costs, which was the basis for determining the manufacturer production costs (''MPC''). For the January 2021 Final Determination, DOE updated the material and labor costs to be representative of the market in 2019 using the historical Bureau of Labor Statistics Producer Price Indices (''PPI'')[11] for each commodity's industry. 86 FR 4885, 4897–4989. In addition, DOE updated labor costs and markups based on the most recent and complete version (*i.e.* 2012) of the Economic Census of Industry by the U.S. Census Bureau.[12] Finally, to account for manufacturers' non-production costs and profit margin, DOE applied a multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. DOE developed an average manufacturer markup by examining the annual Securities and Exchange Commission (''SEC'') 10–K reports filed by publicly-traded manufacturers primarily engaged in appliance manufacturing and whose combined product range includes SEMs. *Id.*

In the April 2022 RFI, DOE requested comment on whether and how the costs estimated for motor designs considered in the January 2021 Final Determination have changed since the time of that analysis. DOE also requested information on the investments (including related costs) necessary to incorporate specific design options, including, but not limited to, costs related to new or modified tooling (if any), materials, engineering and development efforts to implement each design option, and manufacturing/production impacts. 87 FR 23471, 23473. In response, NEMA commented that across the board, including for labor, tooling, materials, semi-conductors, shipping, engineering, development, certification, costs have increased over the last 12 months and especially over the last 6 months. They noted that costs may be as much as 50 percent higher than 2020–2021, and are expected to remain at elevated levels for the next 2–3 years. Further, they noted that lead times for materials have also dramatically lengthened, with certain equipment being unavailable. (NEMA, No. 8 at p. 3) QM Power commented that the move towards higher efficiency alternatives has a cost of entry. Generally, they noted that higher efficiency motors are more expensive than their lower-efficiency counterpart but through adoption, increased volumes as well as incentives, cost can be driven down. (QM Power, No. 10 at p. 5)

DOE notes that a significant portion of the costs associated with SEMs is attributed to the fluctuating metal prices of several motor components. These include steel laminations, copper wiring, and rotor die-casting aluminum or copper. To account for the variable prices of components that are dependent on fluctuating metal prices, in the January 2021 Final Determination, DOE used an inflation adjusted five-year average price point for these components. (*See* Chapter 5 of the 2021 Final Determination TSD). For this NOPD, DOE performed an initial evaluation of the latest Bureau of Labor Statistics PPI and determined that the five-year average price point for these components would increase, in turn increasing the MSPs that were determined in the January 2021 Final Determination. However, DOE notes that the MSP increase would apply to all efficiency levels and therefore incremental costs are not expected to change significantly from the January 2021 Final Determination. Finally, any

[10] The stack length for the polyphase representative unit increased from 4.4 in for the current baseline level up to 6.0 in (36% increase) for the non-space constrained design and stayed constant at 3.6 in (0% increase) for the space constrained designs. The stack length for the CSCR representative unit increased from 4.6 in for the current baseline level up to 6.0 in (30% increase) for the non-space constrained design and increased from 3.45 in for the current baseline level up to 3.6 in (4% increase) for the space constrained designs. (See Chapter 5 of the January 2021 Final Determination for further details).

[11] *www.bls.gov/ppi/.*

[12] U.S. Census Bureau, 2012 Economic Census of Industry Series Reports for Industry, U.S. Department of Commerce, 2012; NAICS code 3353121 ''Fractional Horsepower Motors'' Production workers hours and wages. Although some summary statistics of the 2017 Economic Census for Manufacturing is currently available, the detailed statistics for the U.S. is estimated to be released in the time frame of November 2020-September 2021. *https://www.census.gov/programs-surveys/economic-census/about/release-schedules.html.*

increase in costs would further substantiate the determination that amended standards would not satisfy the cost-effectiveness criterion as required by EPCA because while costs might increase, the efficiencies would stay the same. Consequently, DOE did not further evaluate the January 2021 Final Determination cost analysis, and maintained the cost evaluation from the January 2021 Final Determination for this NOPD.

3. Cost-Efficiency Results

As discussed in the previous sections, DOE determined there were no significant technical advancements in induction motor technology that could lead to more efficient or lower cost motor designs relative to the analysis considered in the January 2021 Final Determination. DOE has initially determined that the MSPs that were determined in the January 2021 Final Determination would likely increase as a result of costs increases of components of SEMs. However, as described previously, the MSP increase would apply to all efficiency levels and therefore incremental costs are not expected to change significantly from the January 2021 Final Determination. Any increase in costs would further substantiate the determination that amended standards would not be cost-effective because while costs might increase, the efficiencies would stay the same. Therefore, for this NOPD, DOE has tentatively concluded that the analysis from the January 2021 Final Determination continues to apply.

Accordingly, the engineering analysis results are four MSP-versus-full-load efficiency curves that represent two relationships (space-constrained and non-space-constrained scenarios) for the representative equipment classes for polyphase and CSCR motors. Table IV–4 and Table IV–5 present the results from the January 2021 Final Determination. Further discussion is provided in Chapter 5 of the January 2021 Final Determination TSD.

TABLE IV–4—JANUARY 2021 FINAL DETERMINATION EFFICIENCY AND MSP DATA FOR POLYPHASE MOTOR

Efficiency level	Efficiency (%) (design 1/design 2) *	MSP (2019$) (design 1/design 2) *
Baseline	83.5/83.5	159.35/159.23
EL 1	85.3/85.2	258.97/180.16
EL 2	86.2/86.3	266.99/216.77
EL 3 (Max-tech)	87.7/87.8	1,845.90/360.87

* Design 1 denotes the space constrained design, and design 2 denotes the non-space constrained design.

TABLE IV–5—JANUARY 2021 FINAL DETERMINATION EFFICIENCY AND MSP DATA FOR CSCR MOTOR

Efficiency level	Efficiency (%) (design 1/design 2) *	MSP (2019$) (design 1/design 2) *
Baseline	81.7/81.8	176.31/169.38
EL 1	82.8/82.8	181.19/178.23
EL 2	84.1/84.0	190.24/189.11
EL 3	84.8/84.6	272.98/196.46
EL 4	86.8/86.7	281.69/213.66
EL 5 (Max-tech)	88.1/87.9	1,859.53/372.17

* Design 1 denotes the space constrained design, and design 2 denotes the non-space constrained design.

While the engineering analysis focused on two representative units, the energy use and life-cycle cost analyses (*see* sections IV.D and IV.E of this document) considered two additional representative units to separately analyze consumers of integral (*i.e.,* with horsepower greater than or equal to 1 hp) single-phase CSCR small electric motors and fractional (*i.e.,* with horsepower less than 1 hp) polyphase small electric motors. In the January 2021 Final Determination, DOE extrapolated the results from the units studied in the engineering analysis for the two supplementary representative units (Representative Unit #3, Single-phase CSCR, 4-pole, 1hp; Representative Unit #4, Polyphase, 4-pole, 0.5hp). Further discussion on the scaling methodology and cost-efficiency results for the two supplementary representative units are provided in Chapter 5 of the January 2021 Final Determination TSD.

DOE requests comments on its tentative conclusion that the results of the engineering analysis from the January 2021 Final Determination continue to appropriately apply because: (1) there are no significant technical advancements in induction motor technology that could lead to more efficient or lower cost motor designs since that time, and (2) increases in costs and MSPs only further substantiate that higher efficiencies continue to be cost-ineffective.

C. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert the MSP estimates derived in the engineering analysis to SEM consumer costs, which are then used in the LCC and PBP analysis and in the manufacturer impact analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin. DOE develops baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[13]

[13] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup

Continued

In the April 2022 RFI, DOE requested information on the existence of any distribution channels other than the channels that were identified in the January 2021 Final Determination. DOE also requested data on the fraction of sales that go through these channels and any other identified channels. DOE further noted that in the January 2021 Final Determination, DOE identified three distribution channels for small electric motors and estimated their respective shares of sales volume: (1) from manufacturers to original equipment manufacturers (''OEMs''), who incorporate motors in larger pieces of equipment, to OEM equipment distributors, to contractors, and then to end-users (65 percent of shipments); (2) from manufacturers to wholesale distributors, to OEMs, to OEM equipment distributors, to contractors, and then to end-users (30 percent of shipments); and (3) from manufacturers to distributors or retailers, to contractors and then to end-users (5 percent of shipments). 87 FR 23471, 23473

DOE reviewed the data sources used to develop distribution channels and sales tax. DOE has tentatively concluded that the markups for each step in the distribution channel, and sales taxes are comparable to the estimates developed for the January 2021 Final Determination.

In response to the April 2022 RFI, NEMA commented that internet sales may be increasing, but that they did not have insight into this. NEMA further commented that 90 percent of units are sold to equipment manufacturers (*i.e.,* OEMs), the remaining 10 percent is sold through distribution which is sold to smaller OEMs building equipment. They noted that very few units are sold as a replacement for failed units. (NEMA, No. 8 at p. 4) NEMA further stated that OEMs demand that motor suppliers support numerous system efficiency levels in order for them to meet DOE requirements. They noted that SEM distribution continue to evolve as more finished equipment with embedded motors are produced offshore, and that offshore manufacturers often manufacture the motors that are embedded and sent to the U.S. market. They noted that the internet provides direct access to retail and commercial customers for these offshore products, and estimated that offshore SEMs could be in excess of 50 percent of the units imported, depending on how one sets the scope of products impacted. (NEMA, No. 8 at p. 3)

As noted previously, in the January 2021 Final Determination, DOE estimated that few units would be sold as replacement via channel 3 (*i.e.,* 5 percent). In addition, DOE assumed that 65 percent of motors are sold directly to OEMs (*i.e.,* via channel 1) while 30 percent are sold to OEMs through distribution (*i.e.,* via channel 2). DOE notes that these channels also include internet sales and imported SEMs. The estimate provided by NEMA would instead result in the following estimates of fraction of shipments: 90 percent of shipments via channel 1; 10 percent of shipments via channel 2; and 0 percent of shipments via channel 3. DOE notes that the baseline and incremental markups associated with Channel 1 are lower than the baseline and incremental markups associated with channel 2, which includes additional distributor markups. Therefore, this change results in a slightly lower shipments-weighted average baseline and incremental markup for small electric motors (6 and 4 percent less respectively), which could in turn decrease the calculated consumer cost of a small electric motor at each EL. However, because this decrease is relatively small and impacts all ELs, DOE has tentatively concluded that such update would still result in comparable incremental changes in consumer costs with increasing ELs and comparable LCC savings results. In addition, due to the separate increase in MSPs across all ELs since the publication of the January 2021 Final Determination (*see* section IV.B.2 of this document), which in turn increases the resulting consumer costs across all ELs, DOE has tentatively concluded that such updates would result in comparable consumer costs and LCC savings results.

DOE requests comments on its tentative conclusion that the revised market shares by distribution channel and revised markups and sales taxes would still result in SEM consumer costs and LCC savings that are comparable to the estimates developed for the January 2021 Final Determination.

D. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of small electric motors at different efficiencies in representative U.S. applications, and to assess the energy savings potential of increased small electric motor efficiency. The energy use analysis estimates the range of energy use of small electric motors in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

In the April 2022 RFI, DOE requested information on whether the results of the January 2021 Final Determination energy use were still relevant. Specifically, DOE requested inputs on whether the inputs to the energy use calculation used in the January 2021 Final Determination were still relevant. DOE further requested data and information related to various inputs to the energy use calculation: (1) the distribution of shipments across applications and sectors by equipment class or by motor topology and horsepower; (2) typical operating hours by application and sector; (3) typical motor load by application and sector; and (4) typical load profiles (*i.e.,* percentage of annual operating hours spent at specified load points) by application and sector. 87 FR 23471, 23473

In response to the April 2022 RFI, NEMA stated that the hours of use and distribution data from the previous iteration of the rulemaking remain sufficient for the purposes of making a determination on this review of standards. (NEMA, No. 8 at p. 2)

Table IV–6 presents the average energy consumption, from section 7.3 of the January 2021 Final Determination TSD, for each SEM representative unit and efficiency level.[14] DOE has tentatively concluded that the average energy consumption for these small electric motors are equal to the estimates developed for the January 2021 Final Determination, as the technology options at each efficiency level, and usage inputs, have not changed.

for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

[14] The analysis focuses on two representative units identified in the engineering analysis. In addition, for each equipment class group, the January 2021 Final determination also analyzed an additional representative unit to include consumers of integral single-phase CSCR small electric motors and fractional polyphase small electric motor. *See* Section 7.1 of the January 2021 Final Determination TSD.

TABLE IV–6—JANUARY 2021 FINAL DETERMINATION AVERAGE ENERGY USE BY EFFICIENCY LEVELS

Rep. unit	Description	Kilowatt-hours per year					
		EL 0	EL 1	EL 2	EL 3	EL 4	EL 5
1	Single-phase (CSCR), 4 pole, 0.75 hp	1,653.6	1,628.2	1,598.5	1,583.8	1,536.0	1,509.0
2	Polyphase, 4 pole, 1 hp	2,092.8	2,047.7	2,020.8	1,983.8	.....	.....
3	Single-phase (CSCR), 4 pole, 1 hp	2,191.9	2,159.1	2,122.7	2,103.9	2,043.2	2,008.0
4	Polyphase, 4 pole, 0.5 hp	1,152.6	1,117.9	1,096.7	1,068.1	.....	.....

DOE requests comments on its tentative conclusion that the average energy use results for small electric motors are the same as the estimates developed for the January 2021 Final Determination.

E. Life-Cycle Cost and Payback Period Analysis

DOE conducts LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards for small electric motors. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE uses the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

For any given efficiency level, DOE measures the change in LCC relative to the LCC in the no-new-standards case, which reflects the estimated efficiency distribution of small electric motors in the absence of new or amended energy conservation standards. In contrast, the PBP for a given efficiency level is measured relative to the baseline product.

For each considered efficiency level in each product class, DOE calculated the LCC and PBP for a nationally representative set of consumers. For each sample consumer, DOE determines the energy consumption for the small electric motor and the appropriate electricity price. By developing a representative sample of consumers, the analysis captured the variability in energy consumption and energy prices associated with the use of small electric motors.

Inputs to the calculation of total installed cost include the cost of the product—which includes MPCs, manufacturer markups, retailer and distributor markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, and discount rates. DOE creates distributions of values for small electric motor lifetime, discount rates, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE uses to calculate the LCC and PBP relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and small electric motor user samples. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the no-new-standards case efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given consumer, product efficiency is chosen based on its probability. If the chosen product efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC and PBP calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who already purchase more-efficient products, DOE avoids overstating the potential benefits from increasing product efficiency. For the January 2021 Final Determination, DOE calculated the LCC and PBP for all consumers of small electric motors as if each were to purchase a new product in the expected year of required compliance with new or amended standards.

The subsections that follow provide discussion of each input to the LCC analysis used in the January 2021 Final Determination and whether and how each input may have changed since the publication of the January 2021 Final Determination.

1. Equipment Costs

To calculate consumer SEM costs, DOE multiplies the MPCs developed in the engineering analysis by the markups described previously (along with sales taxes). DOE uses different markups for baseline products and higher-efficiency products, because DOE applies an incremental markup to the increase in MSP associated with higher-efficiency products. As noted previously, while DOE has determined that MPCs and MSPs are likely higher due to cost increases of SEMs components, DOE has tentatively concluded that the incremental consumer costs between efficiencies have remained comparable to those in the January 2021 Final Determination. Moreover, the noted cost increases further substantiate a determination that amended standards would not be cost-effective. Therefore, in this proposed determination, DOE relied on the same consumer costs as estimated in the January 2021 Final Determination.

2. Installation Cost

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the product. In the January 2021 Determination, DOE found no evidence that installation costs would be impacted with increased efficiency levels and did not account for these costs in the LCC savings calculation (*See* section 8.2.1.5 of the January 2021 Final Determination TSD).

NEMA noted that more efficient SEMs tend to have higher inrush current on startup, and this could overload preexisting branch circuits in retrofit applications. They stated that this would apply both to 3-phase and single-phase designs, and in cord-and-plug SEM designs, the higher inrush currents

could exceed electrical safety requirements. As such, they commented that elevations of efficiency could necessitate rewiring of homes, and therefore, the LCC analysis should account for the costs to improve/replace branch circuit wiring if DOE chooses to pursue a more thorough reinvestigation of the LCC for this rulemaking. (NEMA, No. 8 at p. 4)

As noted previously in section IV.A.2 of this document, DOE is maintaining the same technology options for review in this determination as from the January 2021 Final Determination. As noted by NEMA, an increase in inrush current could necessitate rewiring of homes and result in increased installation costs. However, in the January 2021 Final Determination, the engineering analysis provided the inrush current (also known as ''locked rotor current'') at each of the efficiency levels analyzed (*See* Table 5.5.2, Table 5.5.4 of the January 2021 Final Determination TSD). The data shows that the locked rotor current either decreased at higher ELs or did not increase significantly (*i.e.,* the locked rotor current remained below the maximum limit corresponding to NEMA MG1 design requirements as noted in Table 5.5.2, Table 5.5.4 of the January 2021 Final Determination TSD). As such, as the efficiency increases, the inrush current would not exceed the NEMA MG1 design maximum limits and would not result in any increase in installation costs. Therefore, as the same technology options are being considered in this determination, DOE tentatively concludes that the installation costs would not be impacted with increased efficiency levels and has tentatively determined that the conclusions of the January 2021 Final Determination regarding installation costs are still valid. Accordingly, DOE did not account for these costs in the LCC savings calculation in this determination.

DOE seeks comment on its tentative conclusion that there are no changes in installation costs by efficiency level.

3. Annual Energy Consumption

As previously noted in section IV.D of this document, DOE has tentatively concluded that the average energy consumption for these small electric motors remains the same as the estimates developed for the January 2021 Final Determination. Therefore, DOE used those estimates in the analysis for this proposed determination.

4. Electricity Prices

In the January 2021 Final Determination, DOE derived electricity prices in 2019 using data from EEI Typical Bills and Average Rates reports. Based upon comprehensive, industry-wide surveys, this semi-annual report presents typical monthly electric bills and average kilowatt-hour costs to the customer as charged by investor-owned utilities. For the residential sector, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2018).[15] For the industrial and commercial sectors, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2019).[16] DOE's methodology allows electricity prices to vary by sector, region and season. In DOE's analyses, variability in electricity prices is chosen to be consistent with the way the consumer economic and energy use characteristics are defined in the LCC analysis.

In the January 2021 Final Determination, to estimate electricity prices in future years, DOE multiplied the 2019 energy prices by the projection of annual average price changes for each of the nine census divisions from the Reference case in *AEO2020,* which has an end year of 2050.[17] To arrive at prices in the compliance year (which was assumed to be 2028 in the January 2021 Final Determination), DOE multiplied the 2019 electricity prices by the projection of annual national-average residential, industrial, and commercial electricity prices provided by AEO *2020.* To estimate the trend after 2028, DOE used the average rate of change during 2028–2050. *See* section 8.2.2.2 of the of the January 2021 Final Determination TSD.

To assess the impact of electricity prices in this determination, DOE compared average electricity prices in the January 2021 Final Determination for 2028 (the starting year in the analysis) to a likely starting year if DOE performed a revised analysis in a new rulemaking.[18] To assess the impact of updated energy price estimates, DOE used 2021 EEI Typical Bills and Average Rates reports and *AEO* 2022 energy price trends.[19] DOE has found that weighted-average electricity prices across all sectors are slightly lower in 2029 ($0.085/kW in $2019) compared to 2028 weighted-average electricity prices used in the January 2021 Final Determination ($0.092/kW in 2018$). This is partly offset by a higher electricity price growth rate in AEO 2021 (−0.26%) compared to what was used in the January 2021 Final Determination (−0.30%) based on AEO 2019. Therefore, DOE has tentatively determined that the energy prices have not changed significantly from that estimated in the January 2021 Final Determination.[20] For this reason, DOE used the estimates from the January 2021 Final Determination in the analysis for this proposed determination.

5. Maintenance and Repair Costs

Repair costs are associated with repairing or replacing equipment components that have failed in an appliance; maintenance costs are associated with maintaining the operation of the equipment. Typically, small incremental increases in product efficiency produce no, or only minor, changes in repair and maintenance costs compared to baseline efficiency products.

In the January 2021 Final Determination, DOE estimated that for all the equipment classes of small electric motors, there is no change in maintenance with efficiency level, and therefore DOE did not include those costs in the LCC savings calculation. In addition, DOE assumed that small electric motors are usually not repaired. Most small motors are mass produced and are not constructed or designed to be repaired because the manufacturing process uses spot welding welds and rivets to fasten or secure the frame and assembled components, not nuts and bolts. (*See* section 8.2.2.3 of the January 2021 Final Determination TSD). DOE has tentatively determined that these

[15] Coughlin, K. and B. Beraki. 2018. Residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL–2001169. *ees.lbl.gov/publications/residential-electricity-prices-review.*

[16] Coughlin, K. and B. Beraki. 2019. Non-residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL–2001203. *ees.lbl.gov/publications/non-residential-electricity-prices.*

[17] U.S. Department of Energy-Energy Information Administration. *Annual Energy Outlook 2020 with Projections to 2050.* Washington, DC. Available at *www.eia.gov/forecasts/aeo/.*

[18] For purposes of its analysis, DOE estimated that any amended standards would apply to small electric motors manufactured 5 years after the date on which the amended standard is published. DOE estimated publication of a final rule in the first half of 2024. Therefore, for purposes of its analysis, DOE used 2029 as the year of compliance.

[19] U.S. Department of Energy-Energy Information Administration, *Annual Energy Outlook 2022 with Projections to 2050,* available at *https://www.eia.gov/outlooks/aeo/* (last accessed October 14, 2022).

[20] In addition, any decrease in electricity costs would further substantiate the determination that amended standards would not satisfy the cost-effectiveness criterion as required by EPCA because it would reduce the calculated operating costs savings and therefore the LCC savings.

conclusions are still valid as the technology options have not changed across ELs. Therefore, DOE did not include those costs in the LCC savings calculation.

DOE seeks comment on its tentative conclusion that there is no changes in maintenance costs by efficiency level and that small electric motors are usually not repaired.

6. Equipment Lifetime

In the April 2022 RFI, DOE requested information on whether the lifetime inputs used in the January 2021 Final Determination were still valid. Additionally, DOE requested data and input on the appropriate equipment lifetimes for small electric motors both in years and in lifetime mechanical hours that DOE should apply in its analysis. 87 FR 23471, 23473

In the January 2021 Final Determination, DOE used two Weibull distributions. One characterizes the motor lifetime in total operating hours (*i.e.,* mechanical lifetime), while the other characterizes the lifetime in years of use in the application (*e.g.,* a pump). DOE estimated motor mechanical lifetimes of 40,000 hours for polyphase motors and 30,000 hours for single phase motors. DOE estimated average application lifetimes to 7.8–9.7 years. (*See* section 8.2.2.4 of the January 2021 Final Determination TSD)

In response to the April 2022 RFI, NEMA commented that in their assessment, the lifetime inputs used in the previous analysis are still valid. (NEMA, No. 8 at p. 4)

As small electric motors have not significantly changed since the January 2021 Final Determination, DOE has tentatively determined that the equipment lifetime has remained largely the same and used the lifetime inputs form the January 2021 Final Determination in this analysis.

DOE seeks comment on its tentative conclusion that lifetimes have remained the same as estimated in the January 2021 Final Determination.

7. Discount Rates

In the calculation of LCC, DOE applies discount rates appropriate to residential, commercial, and industrial consumers to estimate the present value of future operating cost savings. DOE estimated a distribution of discount rates for small electric motors based on the opportunity cost of consumer funds.

DOE applies weighted average discount rates calculated from consumer debt and asset data, rather than marginal or implicit discount rates.[21] The LCC analysis estimates net present value over the lifetime of the product, so the appropriate discount rate will reflect the general opportunity cost of household funds, taking this time scale into account. Given the long time horizon modeled in the LCC analysis, the application of a marginal interest rate associated with an initial source of funds is inaccurate. Regardless of the method of purchase, consumers are expected to continue to rebalance their debt and asset holdings over the LCC analysis period, based on the restrictions consumers face in their debt payment requirements and the relative size of the interest rates available on debts and assets. DOE estimates the aggregate impact of this rebalancing using the historical distribution of debts and assets.

To establish residential discount rates for the LCC analysis, DOE identified all relevant household debt or asset classes in order to approximate a consumer's opportunity cost of funds related to appliance energy cost savings. It estimated the average percentage shares of the various types of debt and equity by household income group using data from the Federal Reserve Board's Survey of Consumer Finances[22] (''SCF'') for 1995, 1998, 2001, 2004, 2007, 2010, 2013, 2016, and 2019. Using the SCF and other sources, DOE developed a distribution of rates for each type of debt and asset by income group to represent the rates that may apply in the year in which amended standards would take effect. DOE assigned each sample household a specific discount rate drawn from one of the distribution across all income groups. The average rate across all types of household debt and equity and income groups in 2022, weighted by the shares of each type, is 4.3 percent, which the same as the average residential discount rate used in the January 2021 Final Determination (*See* section 8.2.2 of the January 2021 Final Determination TSD).

To establish commercial and industrial discount rates, DOE estimated the weighted-average cost of capital using data from Damodaran Online.[23] The weighted-average cost of capital is commonly used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the firm of equity and debt financing. DOE estimated the cost of equity using the capital asset pricing model, which assumes that the cost of equity for a particular company is proportional to the systematic risk faced by that company. The average commercial and industrial discount rates in 2022 are 6.8 percent and 7.2 percent, respectively. These values compare to the average commercial and industrial discount rates in the January 2021 Final Determination which were estimated to 6.4 percent and 6.9 percent, respectively (*See* section 8.2.2 of the January 2021 Final Determination TSD). Therefore, DOE has tentatively determined that discount rates have not changed significantly from those in the January 2021 Final Determination and these minor changes would have no significant impact on the LCC results. DOE therefore used the discount rates from the January 2021 Final Determination in the analysis for this proposed determination.

DOE seeks comment on its tentative conclusion that discount rates have not changed significantly since in the January 2021 Final Determination.

8. Energy Efficiency Distribution in the No-New-Standards Case

To accurately estimate the share of consumers that would be affected by a potential amended energy conservation standard at a particular efficiency level, DOE's LCC analysis considers the projected distribution (market shares) of equipment efficiencies under the no-new-standards case (*i.e.,* the case without amended or new energy conservation standards).

In its analysis for the January 2021 Final Determination, DOE developed no-new standards case efficiency distributions based on the distributions of then currently available models for which SEM efficiency is included in catalog listings. DOE relied on 2018

[21] The implicit discount rate is inferred from a consumer purchase decision between two otherwise identical goods with different first cost and operating cost. It is the interest rate that equates the increment of first cost to the difference in net present value of lifetime operating cost, incorporating the influence of several factors: transaction costs; risk premiums and response to uncertainty; time preferences; interest rates at which a consumer is able to borrow or lend. The implicit discount rate is not appropriate for the LCC analysis because it reflects a range of factors that influence consumer purchase decisions, rather than the opportunity cost of the funds that are used in purchases.

[22] U.S. Board of Governors of the Federal Reserve System. *Survey of Consumer Finances.* 1995, 1998, 2001, 2004, 2007, 2010, 2013, 2016, and 2019. (Last accessed June 15, 2022). *www.federalreserve.gov/econresdata/scf/scfindex.htm.*

[23] Damodaran, A. *Data Page: Historical Returns on Stocks, Bonds and Bills-United States.* 2021. (Last accessed April 26, 2022.) *pages.stern.nyu.edu/~adamodar/.*

catalog data and analyzed the distribution of SEMs in the manufacturer catalog data for CSCR and polyphase SEMs.[24] DOE projected that these efficiency distributions would remain constant throughout the compliance year. See Table IV–7.

TABLE IV–7—JANUARY 2021 FINAL DETERMINATION NO-NEW-STANDARDS CASE MARKET SHARE FOR SMALL ELECTRIC MOTORS REPRESENTATIVE UNITS BY EFFICIENCY LEVEL IN THE COMPLIANCE YEAR

Rep. unit	Equipment class group	EL 0 (%)	EL 1 (%)	EL 2 (%)	EL 3 (%)	EL 4 (%)	EL 5 (%)
1	Single-phase, CSCR, 4 poles, 0.75 hp	98.0	1.0	0.0	1.0	0.0	0.0
2	Polyphase, 4 poles, 1 hp	95.5	3.75	0.0	0.75	.....	.....
3	Single-phase, CSCR, 4 poles, 1 hp	98.0	1.0	0.0	1.0	0.0	0.0
4	Polyphase 4 poles, 0.5 hp	94.0	6.0	0.0	0.0	.....	.....

In the April 2022 RFI, DOE requested comments on whether the no-new standards case efficiency distributions used in the January 2021 Final Determination still reflected the current mix of equipment efficiency in the market. DOE also requested data and input on the appropriate efficiency distribution in the no-new standards case for SEMs by equipment class group and horsepower range. DOE requested data that would support changes in efficiency distributions over time in the no-new standards case. 87 FR 23471, 23473

In response to the April 2022 RFI, NEMA commented that the energy efficiency distributions of the previous rule's no-new-standards case appear to remain accurate based on NEMA's available information. (NEMA, No. 8 at p. 2)

As previously noted, DOE collected 2022 catalog data and observed that small electric motors have not significantly changed since the January 2021 Final Determination, DOE has tentatively determined that the efficiency distributions have not changed significantly since the January 2021 Final Determination. Therefore, in this proposed determination, DOE used the same no-new standard case efficiency distributions as in the January 2021 Final Determination.

DOE seeks comment on its tentative conclusion to rely on the same no-new standard case efficiency distributions as in the January 2021 Final Determination.

9. Payback Period Analysis

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more-efficient equipment, compared to baseline equipment, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the equipment mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficiency level are the change in total installed cost of the equipment and the change in the first-year annual operating expenditures relative to the baseline. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed.

V. Analytical Results and Conclusions

The following section addresses the results from DOE's analyses with respect to the considered energy conservation standards for SEMs. It addresses the ELs examined by DOE and the projected impacts of each of these levels. Additional details regarding DOE's analyses are contained in the NOPD TSD supporting this document.

A. Economic Impacts on Individual Consumers

DOE analyzed the cost effectiveness (*i.e.,* the savings in operating costs throughout the estimated average life of SEMs compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the SEM which are likely to result from the imposition of a standard at an EL by considering the LCC and PBP at each EL. DOE also examined the impacts of potential standards on selected consumer subgroups. These analyses are discussed in the following sections.

In general, higher-efficiency products can affect consumers in two ways: (1) purchase price increases and (2) annual operating costs decrease. Inputs used for calculating the LCC and PBP include total installed costs (*i.e.,* product price plus installation costs), and operating costs (*i.e.,* annual energy use, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and a discount rate.

The total installed cost is determined by combining the installation cost with the equipment price. As discussed in section IV.E.1 and IV.E.2 of this document, DOE has tentatively determined that the equipment price has not changed significantly since the January 2021 Final Determination. DOE has also tentatively concluded that the conclusions of the January 2021 Final Determination regarding installation costs are still valid and that installation costs would not be impacted with increased efficiency levels. Therefore, the total installed costs are estimated to have remained approximately the same, as compared to January 2021 Final Determination. Accordingly, DOE relied on the 2021 Final Determination analysis for these costs.

The annual operating cost is determined by the energy consumption of SEMs, the electricity prices, and any repair and maintenance costs that would be required. DOE has tentatively determined that the energy consumption (*see* section IV.D of this document), electricity prices (*see* section IV.E.4 of this document), and repair and maintenance costs associated with each efficiency level have not changed significantly from that in January 2021 Final Determination (*see* section IV.E.5 of this document). Therefore, DOE has tentatively determined that the annual operating cost of SEMs has not changed significantly from that estimated in the January 2021 Final Determination. Accordingly, DOE relied on the 2021 Final Determination analysis for these costs.

Further, as discussed in section IV.E.6 and section IV.E.7 of this document, DOE has tentatively concluded that lifetimes of SEM have not changed and discount rates have not changed significantly from that estimated in the January 2021 Final Determination. Therefore, in this proposed

[24] DOE relied on 140 models of CSCR small electric motors and 229 models of polyphase small electric motors identified in the manufacturer catalog data. More details on the distributions of currently available models for which motor catalog list efficiency is available in Section 8.2 of the January 2021 Final Determination TSD.

determination, DOE relied on the lifetime operating costs as estimated in the January 2021 Final Determination.

Because DOE is relying on the total installed costs and lifetime operating costs as estimated in the January 2021 Final Determination, DOE has tentatively determined that the LCC savings for each efficiency level of SEMs remain the same as the estimates in January 2021 Final Determination.

In addition, as previously stated, DOE has estimated that the total installed costs and operating costs have not changed significantly and DOE is relying on the values estimated in the January 2021 Final Determination. Therefore, DOE has tentatively determined that the PBP for each efficiency level of SEM is the same as the PBP results from the January 2021 Final Determination.

Table V–1 through Table V–4 present the average LCC and PBP results for the ELs considered from section 8.4 of the January 2021 Final Determination TSD, for each representative unit, which DOE has tentatively concluded remain valid.[25]

TABLE V–1—JANUARY 2021 FINAL DETERMINATION AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR REPRESENTATIVE UNIT 1

[Single-phase, CSCR, 4 pole, 0.75 hp]

Efficiency Level	Average LCC savings * (2019$)	Simple payback period (years)
EL 1	−6.4	6.8
EL 2	−16.2	7.3
EL 3	−51.4	12.0
EL 4	−59.9	9.6
EL 5	−855.0	67.9

* The savings represent the average LCC for affected consumers.

TABLE V–2—JANUARY 2021 FINAL DETERMINATION AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR REPRESENTATIVE UNIT 2

[Polyphase, 4 pole, 1 hp]

Efficiency level	LCC savings (2019$)	Simple payback period (years)
EL 1	−48.1	16.9
EL 2	−92.3	19.5
EL 3	−878.7	94.5

TABLE V–3—JANUARY 2021 FINAL DETERMINATION AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR REPRESENTATIVE UNIT 3

[Single-phase, CSCR, 4 pole, 1 hp]

Efficiency level	Average LCC savings * (2019$)	Simple payback period (years)
EL 1	−6.0	6.0
EL 2	−16.2	6.6
EL 3	−54.3	10.7
EL 4	−61.8	8.6
EL 5	−942.1	59.2

* The savings represent the average LCC for affected consumers.

TABLE V–4—JANUARY 2021 FINAL DETERMINATION AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR REPRESENTATIVE UNIT 4

[Polyphase, 4 pole, 0.5 hp]

Efficiency level	LCC savings (2019$)	Simple payback period (years)
EL 1	−40.5	18.0
EL 2	−77.9	20.8
EL 3	−721.4	99.6

[25] As noted previously, the analysis focuses on two representative units identified in the engineering analysis. In addition, for each equipment class group, the January 2021 Final determination also analyzed an additional representative unit to include consumers of integral single-phase CSCR small electric motors and fractional polyphase small electric motor. *See* Section 7.1 of the January 2021 Final Determination TSD.

B. National Impact Analysis

As discussed in section V.C.2 of this document, DOE has determined that amended standards would not satisfy the cost-effectiveness criterion as required by EPCA when determining whether to amend its standards for a given covered product or equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(C)) See also section IV.E of this document (discussing in greater detail DOE's analysis of the available data in reaching this determination). Consequently, DOE did not conduct a national impact analysis and did not further consider the net present value of the total costs and benefits experienced by consumers.

1. Significance of Energy Savings

As explained in section III.D.2 of this document, DOE did not separately evaluate the national energy savings of the under the considered amended standards because it has tentatively determined that the potential standards would not be cost-effective as defined in EPCA.[26] (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A); 42 U.S.C. 6295(n)(2))

2. Net Present Value of Consumer Costs and Benefits

As previously noted, DOE did not conduct a national impact analysis and did not further consider the net present value of the total costs and benefits experienced by consumers.

C. Proposed Determination

As required by EPCA, this NOPD analyzes whether amended standards for SEMs would result in significant conservation of energy, be technologically feasible, and be cost effective. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) The criteria considered under 42 U.S.C. 6295(m)(1)(A) and the additional analysis are discussed below. Because an analysis of potential cost effectiveness and energy savings first require an evaluation of the relevant technology, DOE first discusses the technological feasibility of amended standards. DOE then addresses the cost effectiveness and energy savings associated with potential amended standards.

1. Technological Feasibility

EPCA mandates that DOE consider whether amended energy conservation standards for SEMs would be technologically feasible. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(B)) DOE has tentatively determined that there are technology options that would improve the efficiency of SEMs. These technology options are being used in commercially available SEMs and therefore are technologically feasible. (*See* section IV.A.2 for further information.) Hence, DOE has tentatively determined that amended energy conservation standards for SEMs are technologically feasible.

2. Cost Effectiveness

EPCA requires DOE to consider whether energy conservation standards for SEMs would be cost effective through an evaluation of the savings in operating costs throughout the estimated average life of the covered equipment compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered equipment which is likely to result from the imposition of an amended standard. (42 U.S.C. 6295(m)(1)(A), 42 U.S.C. 6295(n)(2)(C), and 42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducted an LCC analysis in the January 2021 Final Determination to estimate the net costs/benefits to users from increased efficiency in the considered equipment. (*See* results in Table V–1 through Table V–4 of this document) As described previously, DOE has determined that the results of the LCC analysis in the January 2021 Final Determination are still valid.

For CSCR SEMS, DOE first considered the most efficient level, EL 5 for (max tech), which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 5 for CSCR SEMs is not cost effective.

DOE then considered the next most efficient level, EL 4, which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 4 is not cost effective.

DOE then considered the next most efficient level, EL 3, which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 3 is not cost effective.

DOE then considered the next most efficient level, EL 2 which would result in negative LCC savings results DOE found in the January 2021 Final Determination. On the basis of negative LCC savings, DOE has tentatively determined that EL 2 is not cost effective.

DOE then considered the next most efficient level, EL 1, which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 1 is not cost effective.

For polyphase SEMs, DOE first considered the most efficient level, EL 3 for (max tech), which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 3 for polyphase SEMs is not cost effective.

DOE then considered the next most efficient level, EL 2, which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 2 is not cost effective.

DOE then considered the next most efficient level, EL 1, which would result in negative LCC savings. On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, DOE has tentatively determined that EL 1 is not cost effective.

On the basis of negative LCC savings results DOE found in the January 2021 Final Determination, which DOE has concluded are still valid, DOE has determined that amended standards would not satisfy the cost-effectiveness criterion as required by EPCA when determining whether to amend its standards for SEMs. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(C)) *See* also section IV.E of this document (discussing in greater detail DOE's analysis of the available data in reaching this determination). Consequently, DOE did not conduct a national impact analysis and did not

[26] The March 2010 Final Rule estimated the national energy savings achieved by the current energy conservation standards to be 2.20 quads of primary energy savings (*i.e.,* 0.29 quad at TSL 4b for polyphase SEMs and 1.91 quad at TSL 7 for single phase SEMs). The March 2010 Final Rule also estimated that the TSL resulting in the maximum national energy savings would provide a total of 2.70 quads of primary energy savings (*i.e.,* 0.37 quad at TSL 7 for polyphase SEMs and 2.33 quad at TSL 8 for single phase SEMs). 75 FR 10874, 10916 (March 9, 2010). The March 2010 Final Rule also estimated that the TSL directly above the current energy conservation standards would be 2.67 quads of primary energy savings (*i.e.,* 0.34 quad at TSL 5 for polyphase SEMs and 2.33 quad at TSL 8 for single phase SEMs). Although DOE did not separately evaluate the potential energy savings under the considered amended standards, this previous analysis which also relied on the technology options described in section IV.A.2 of this document, indicates an lower limit of approximately 0.47 quads of primary energy ($2.67 - 2.20 = 0.47$) and an upper limit of approximately 0.5 quad of primary energy savings ($2.70 - 2.20 = 0.50$)

further consider the net present value of the total costs and benefits experienced by consumers.

3. Significant Conservation of Energy

EPCA also mandates that DOE consider whether amended energy conservation standards for SEMs would result in significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) As provided in the prior section, DOE has tentatively determined that amended standards at the evaluated ELs would not be cost effective. Consequently, because DOE's analysis indicates that the three mandatory prerequisites that need to be satisfied to permit DOE to move forward with a determination to amend its current standards cannot be met, DOE did not separately determine whether the potential energy savings would be significant for purposes of the statutory test that applies. See 42 U.S.C. 6295(n)(2) (requiring that amended standards must result in significant conservation energy, be technologically feasible, and be cost-effective as provided in 42 U.S.C. 6295(o)(2)(B)(i)(II)).[27] See also section V.B.1 of this document.

4. Summary

In this proposed determination, based on the consideration of cost effectiveness and the initial determination that amended standards would not be cost effective, DOE has tentatively determined that energy conservation standards for SEMs do not need to be amended. DOE will consider all comments received on this proposed determination in issuing any final determination.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'')1 2866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') 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 E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 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 (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this proposed determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. Because DOE is proposing not to amend standards for SEMs, if adopted, the determination would not amend any energy conservation standards. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, would have no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared an IRFA for this proposed determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed determination, which proposes to determine that amended energy conservation standards for SEMs are unneeded under the applicable statutory criteria, would impose no new informational or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for actions which are interpretations or rulings with respect to existing regulations. 10 CFR part 1021, subpart D, appendix A4. DOE anticipates that this action qualifies for categorical exclusion A4 because it is an interpretation or ruling in regards to an existing regulation and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final action.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to

[27] Under 42 U.S.C. 6295(o)(2)(B)(i)(II), DOE must consider whether ''the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard.''

examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed determination and has tentatively determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (See 42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive 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 any 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 proposed determination meets the relevant standards of E.O. 12988.

G. Review Under the 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 a proposed regulatory action 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)) The 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 proposed ''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. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE examined this proposed determination according to UMRA and its statement of policy and determined that the proposed determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the 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 rule that may affect family well-being. This proposed determination would not have any 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. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (Mar. 15, 1988), DOE has determined that this proposed determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this NOPD under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 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 the Office of Information and Regulatory Affairs (''OIRA'') at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates 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 Executive 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 proposed determination, which does not propose to amend energy conservation standards for SEMs, is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared Peer Review report pertaining to the energy conservation standards rulemaking analyses.[28] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[29]

VII. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=3.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPD, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests to speak to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this proposed determination and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this proposed determination and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar/public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the proposed determination.

The webinar/public meeting will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this document, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed determination. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed determination. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the webinar/public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this NOPD. In addition, any person may buy a copy of the transcript from the transcribing reporter.

[28] ''Energy Conservation Standards Rulemaking Peer Review Report.'' 2007. Available at *energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (last accessed 10/10/2022).

[29] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.*

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed determination no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments. Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

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. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comment on its tentative conclusion that there have been no significant technical advancements since the last rulemaking, and that the technology options developed for the January 2021 Final Determination are still applicable.

2. DOE requests comments on its tentative conclusion that the results of the engineering analysis from the January 2021 Final Determination continue to appropriately apply because: (1) there are no significant technical advancements in induction motor technology that could lead to more efficient or lower cost motor designs since that time, and (2) increases in costs and MSPs only further substantiate that higher efficiencies continue to be cost-ineffective.

3. DOE requests comments on its tentative conclusion that the revised market shares by distribution channel and revised markups and sales taxes would still result in SEM consumer costs and LCC savings that are comparable to the estimates developed for the January 2021 Final Determination.

4. DOE requests comments on its tentative conclusion that the average energy use results for small electric motors are the same as the estimates developed for the January 2021 Final Determination.

5. DOE seeks comment on its tentative conclusion that there are no changes in installation costs by efficiency level.

6. DOE seeks comment on its tentative conclusion that there is no changes in maintenance costs by efficiency level and that small electric motors are usually not repaired.

7. DOE seeks comment on its tentative conclusion that lifetimes have remained the same as estimated in the January 2021 Final Determination.

8. DOE seeks comment on its tentative conclusion that discount rates have not changed significantly since in the January 2021 Final Determination.

9. DOE seeks comment on its tentative conclusion to rely on the same no-new standard case efficiency distributions as in the January 2021 Final Determination.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of proposed determination and request for comment.

Signing Authority

This document of the Department of Energy was signed on January 30, 2023, by Francisco Alejandro Moreno, Acting Assistant Secretary for Energy Efficiency and Renewable 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 30, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–02199 Filed 2–3–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0158; Project Identifier MCAI–2022–01148–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 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 March 23, 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–2023–0158; 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–2023–0158.
- 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–2023–0158; Project Identifier MCAI–2022–01148–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 2022–0171, dated August 19, 2022 (EASA AD 2022–0171) (also referred to as the MCAI), to correct an unsafe condition for all Airbus A300B1, A300B2–1A, A300B2–1C, A300B2K–3C, A300B2–202, A300B2–203, A300B2–320, A300B4–2C, A300B4–102, A300B4–103, A300B4–120, A300B4–203, A300B4–220, A300C4–203, and A300F4–203 airplanes. Model A300B1, A300B2–202, A300B2–320, A300B4–102, A300B4–120, A300B4–220, A300C4–203, and A300F4–203 airplanes are not certificated by the FAA and are not

included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed.

EASA AD 2022–0171 specifies that it requires a task (limitation) related to the replacement of life-limited parts already in Airbus A300 Airworthiness Limitations Section (ALS) Part 1 Safe Life Airworthiness Limitations Items (SL–ALI) Revision 02 that is required by EASA AD 2017–0204 (which corresponds to FAA AD 2018–18–19, Amendment 39–19398 (83 FR 47056, September 18, 2018) (AD 2018–18–19)), and that incorporation of EASA AD 2022–0171 invalidates (terminates) prior instructions for that task. This proposed AD therefore would terminate the limitations for the tasks identified in the service information referenced in EASA AD 2022–0171, as required by paragraph (g) of AD 2018–18–19, for Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes only.

The FAA is proposing this AD to address fatigue damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–0158.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0171, which specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits. 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 2022–0171 described previously, as incorporated by reference. Any differences with EASA AD 2022–0171 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 2022–0171 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0171 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 2022–0171 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 2022–0171. Service information required by EASA AD 2022–0171 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2023–0158 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 2 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–2023–0158; Project Identifier MCAI–2022–01148–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 23, 2023.

(b) Affected ADs

This AD affects AD 2018–18–19, Amendment 39–19398 (83 FR 47056, September 18, 2018) (AD 2018–18–19).

(c) Applicability

This AD applies to all Airbus SAS Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 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 fatigue damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0171, dated August 19, 2022 (EASA AD 2022–0171).

(h) Exceptions to EASA AD 2022–0171

(1) This AD does not adopt the requirements specified in paragraph (1) of EASA AD 2022–0171.

(2) Paragraph (2) of EASA AD 2022–0171 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 (2) of EASA 2022–0171 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (2) of EASA AD 2022–0171, 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 (3) of EASA AD 2022–0171.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0171does not apply.

(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 2022–0171.

(j) Terminating Action for AD 2018–18–19

Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2018–18–19 for the tasks identified in the service information referenced in EASA AD 2022–0171, for Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes 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 2022–0171, dated August 19, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0171, 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 January 31, 2023.

Christina Underwood,

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

[FR Doc. 2023–02355 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1680; Airspace Docket No. 22–ASO–30]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Liberty, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Class E airspace extending upward from 700 feet above the surface for Causey Airport, Liberty, NC, as all instrument approaches to the airport have been canceled.

DATES: Comments must be received on or before March 23, 2023.

ADDRESSES: Send comments on this proposal to:

The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify Docket No. FAA–2022–1680; Airspace Docket No. 22–ASO–30 at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

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

Communications should identify docket numbers (Docket No. FAA–2022–1680 and Airspace Docket No. 22–ASO–30) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–1680; Airspace Docket No. 22–ASO–30.'' The postcard will be dated/time-stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to remove Class E airspace extending upward from 700 feet above the surface for Causey Airport, Liberty, NC, as there are no longer any instrument approaches into the airport. Therefore Class E airspace is no longer needed.

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

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

Regulatory Notices and Analyses

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

and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO NC E5 Liberty, NC [Revoked]

Causey Airport, NC

Issued in College Park, Georgia, on January 31, 2023.

Andreese C. Davis,

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

[FR Doc. 2023–02362 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

RIN 0694–XC096

Brain Computer Interface (BCI) Two-Day Hybrid Conference at the Department of Commerce

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

ACTION: Announcement of the Brain-Computer Interface (BCI) two-day hybrid conference.

SUMMARY: The Bureau of Industry and Security (BIS) is announcing a two-day hybrid (in-person and virtual) conference with industry and other experts from academia on Brain-Computer Interface (BCI) technology (hereinafter, the BCI conference). This document describes the purpose and scope of the BCI conference and the procedures for attending or requesting to speak. In an advance notice of proposed rulemaking (ANPRM) published on October 26, 2021, BIS requested input from the public and industry concerning the potential uses of BCI technology, particularly with respect to its impact on U.S. national security. While the comments submitted in response to the ANPRM increased BIS's understanding of BCI technology, the BCI conference is intended to further both BIS's and the public's understanding of the current status of BCI technology and anticipated future developments in research and applications.

DATES:

BCI conference: The BCI conference will be held on February 16 and 17, 2023. On February 16, 2023, the proceedings will begin at 9:00 a.m. Eastern Standard Time (EST) and conclude at 3:30 p.m. EST. On February 17, 2023, the BCI conference proceedings will begin at 9:00 a.m. EST and conclude at 11:45 a.m. EST. The Microsoft Teams link for this event is available on the BIS website at *https://www.bis.doc.gov/BCIconference2023.*

Recording: Within 7 business days after the BCI conference, BIS will post a link on the BIS website at *https://www.bis.doc.gov/BCIconference2023* to a recording on MS Teams. This recording will include captioning to make the recording accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: For questions or concerns, please contact Dr. Betty Lee, Chemical and Biological Controls Division, Bureau of Industry and Security, Department of Commerce at phone number at (202) 482–5817; or email at *Betty.Lee@bis.doc.gov* and include ''BCI conference'' in the subject line. For technical help for the BCI conference, please contact *ithelp@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Purpose

In this document, the Bureau of Industry and Security (BIS) is announcing a two-day hybrid (in-person and virtual) conference with industry and other experts (*e.g.,* from research institutions) on Brain-Computer Interface (BCI) technology. This document describes the purpose and scope of the BCI conference and the procedures for attending or requesting to speak. The BCI conference is intended to further BIS's and the public's understanding of the current status and future developments in BCI technology and anticipated future developments in research and applications. The information obtained through the BCI conference will assist BIS in assessing BCI technology's national security implications in connection with potential regulation under the Export Administration Regulations, 15 CFR parts 730 through 774 (EAR) as a ''Section 1758 technology'' consistent with Section 1758 of the Export Control Reform Act of 2018, 50 U.S.C. 4817 (ECRA). Section 1758 of ECRA authorizes BIS to establish appropriate controls on the export, reexport, or transfer (in-country) of emerging and foundational technologies that are essential to the national security of the United States (referred to by BIS as ''Section 1758 technologies'').

In October 2021, BIS published an advance notice of proposed rulemaking (ANPRM) (86 FR 59070 (Oct. 26, 2021)). This ANPRM requested comments from the public and industry concerning the potential uses of BCI technology, particularly with respect to its impact on U.S. national security (*e.g.,* whether such technology could provide the United States, or any of its adversaries, with a qualitative military or intelligence advantage). BIS received 18 comments. The majority of comments stated that BCI technology is used for medical purposes to assist patients that are paralyzed and should not be controlled. These comments highlighted the fact that BCI technology is currently being monitored for future advances and commercialization. Given the limited number of comments, and the innovations made in BCI technology in

the intervening years, BIS hopes to obtain additional information at the BCI conference, including as to innovations, current research initiatives and applications, and information regarding national security implications. BIS is not seeking consensus advice or recommendations from the invited speakers or any members of the public. Instead, it is interested in learning from the perspectives of individuals in their own capacity or as members of a company or entity. Any information provided during the BCI conference, including remarks by industry and academia participants and members of the public, will be made part of the record in any future rulemaking pertaining to BCI technology.

Agenda

Following opening remarks by BIS officials, Day 1 will focus on understanding the neurotech industry. It will include speakers from leading companies and academic institutions involved in BCI technology who will address patient advocacy for obtaining BCI technology for patients, government funding for BCI technology, BCI technology state of the art and applications, and the importance of developing BCI technology further and expanding its usage. The rest of Day 1 will feature presentations by leaders in the BCI technology industry and community, *e.g.,* leaders in research institutes in this area. While the Day 2 agenda is still being finalized, it will include additional remarks by BIS officials on export controls, including how BIS identifies Section 1758 technologies. This session will be followed by speakers from leading companies and academic research institutions involved in BCI, along with other speakers who will address existing work being done on ethics involving BCI technology and dual-use applications for BCI technology. As detailed below, interested members of the public may request to speak at the conference by following the procedures identified in this document. Once the agenda is finalized, BIS will post the final agenda for the BIS conference on the BIS website at *https://www.bis.doc.gov/BCIconference2023.*

The seventeen speakers who have been identified by BIS to speak at this conference are leaders and experts in the BCI industry and community, *e.g.,* researchers and scholars at academic research institutes, and have been invited to give an overview of the current state of the art, including recent innovations in BCI technology, including potential dual-use applications that could be of concern for national security reasons.

Procedure for Attending or Viewing the BCI Conference via Microsoft Teams

RSVP for in-person attendance: As the room capacity is limited to 45 persons, the public is encouraged to participate virtually. Individuals who wish to attend the BCI conference in person are required to RSVP by emailing *Betty.Lee@bis.doc.gov* and include the subject line ''Request to attend BCI conference'' in the email. In the email, please provide your name, job title, organization name, contact information, and a brief description (no longer than 3 sentences) on why you are interested in attending the BCI conference in person. Requests to attend the BCI conference in person must be submitted by 5:00 p.m. EST on February 10, 2023. BIS will notify persons selected to attend in person no later than 5:00 p.m. EST on February 14, 2023, with priority given to persons who are selected to make a presentation on the second day of the BCI conference. Persons interested in attending the BCI conference in person on both days and making a presentation on the second day do not need to submit an RSVP email and instead should follow the guidance below under ''Procedures for requests to make a presentation at the BCI conference.'' Please note that individuals who wish to attend the BCI conference virtually are not required to submit an RSVP request.

Webcast: As noted in the Dates section of this document, the BCI conference will be available live via Microsoft Teams. See the Dates section for Microsoft Teams link to attend virtually.

Visitor Access Requirement: For individuals attending in person, please note that identification is required for access and that Federal agencies will only accept a state-issued driver's license or identification card for access to Federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. The main entrance of the Department of Commerce is located at 1401 Constitution Avenue NW, Washington, DC 20230, between Pennsylvania Avenue and Constitution Avenue and directly across from the Ronald Reagan Building. Upon entering the building, please go through security and check in at the guard's desk. BIS staff will meet and escort visitors to the auditorium.

Non-U.S. Citizens/Non-Permanent Residents: All foreign national visitors who do not have permanent resident status in the United States and who wish to register to attend the BCI conference in person must send an email to *Betty.Lee@bis.doc.gov* to request registration instructions no later than 5:00 p.m. EST on February 7, 2023. Please also bring a copy of your passport on the day of the hearing to serve as identification.

Procedures for Requests To Make a Presentation at the BCI Conference

The agenda for the BCI conference includes several leading experts in BCI technology from industry and academia. Other participants attending in person or virtually will have an opportunity to ask questions. In addition, there will be a limited number of spots for individuals to make short presentations either in person or virtually on February 17, the second day of the BCI conference.

Individuals who wish to make a presentation at the BCI conference on February 17, either in person or virtually, who have not already been identified by BIS as speakers are required to submit an email by 5:00 p.m. EST on Friday, February 10, 2023, to *Betty.Lee@bis.doc.gov* with the subject line ''Request to speak at BCI conference.'' In that email, please include your name, job title, organization name, contact information, a brief description (no longer than 3 sentences) of why you are interested in speaking, a copy of any slides that will be used, and specify whether you will be attending in person or virtually. The email must also include a copy of any presentation that you plan to use. Presentations must be no longer than 10 minutes. BIS reserves the right to impose additional time constraints in order to accommodate potential speakers. In selecting speakers, BIS will seek to represent a range of views. BIS will notify persons selected to speak no later than 5:00 p.m. EST on February 14, 2023.

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–02413 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 260

RIN 3084–AB15

Guides for the Use of Environmental Marketing Claims

AGENCY: Federal Trade Commission.

ACTION: Regulatory review; extension of comment period.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') extends the comment period for its Regulatory Review Notice regarding its Guides for the Use of Environmental Marketing Claims (''Green Guides'' or ''Guides'').

DATES: The deadline for comments on the document published on December 20, 2022 (87 FR 77766) is extended from February 21, 2023, to April 24, 2023.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889) or Julia Solomon Ensor (202–326–2377), Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On December 20, 2022 (87 FR 77766), the Commission published a document initiating its review of the Green Guides as part of the Commission's periodic review of all rules and guides to: (1) examine their efficacy, costs, and benefits; and (2) determine whether to retain, modify, or rescind them. The publication set the comment deadline as February 21, 2023.

Several interested parties have now requested a 60-day extension of the public comment period to conduct consumer survey research and account for issues such as the extensive range of issues involved with the review, significant market changes since the last review of the Guides, the fact that the comment period spanned the holiday season, and supply chain disruptions affecting commenting organizations.[1]

The Commission agrees that allowing additional time for filing comments in response to the document would help facilitate the creation of a more complete record. The Commission has therefore decided to extend the comment period to April 24, 2023.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023–02354 Filed 2–3–23; 8:45 am]

BILLING CODE 6750–01–P

[1] *See* Docket ID FTC–FTC–2022–0077–0008 (Jan. 9, 2022) (''Comment Submitted by FMI—The Food Industry Association''), *https://www.regulations.gov/comment/FTC-2022-0077-0008*; Docket ID FTC–FTC–2022–0077–0010 (Jan. 11, 2022) (''Comment Submitted by Household & Commercial Products Association''), *https://www.regulations.gov/comment/FTC-2022-0077-0010* (''Comment Submitted by Household & Commercial Products Association''); Docket ID FTC–2022–0077–0011) (Jan. 10, 2023) (''Comment Submitted by Consumer Brands Association on behalf of Coalition of Stakeholders''), *https://www.regulations.gov/comment/FTC-2022-0077-0011*; Docket ID FTC–2022–0077–0022) (Jan. 18, 2023) (''Comment Submitted by American Sustainable Business Network, Beyond Plastics, Just Zero, The Last Beach Cleanup, Plastic Pollution Coalition''), *https://www.regulations.gov/comment/FTC-2022-0077-0022.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2023–F–0147]

Micro-Tracers, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by Micro-Tracers, Inc., proposing that the food additive regulations be amended to permit the use of ethyl cellulose as a matrix scaffolding in tracers for use in feeds at no more than 0.09 grams per ton of feed (0.1 ppm).

DATES: The food additive petition was filed on December 12, 2022.

ADDRESSES: For access to the docket to read background documents or 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.

FOR FURTHER INFORMATION CONTACT: Megan Hall, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl. (HFV–221), Rockville, MD 20855, 301–796–3801.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), we are giving notice that we have filed a food additive petition (FAP 2316), submitted by Micro-Tracers, Inc., 1375 Van Dyke Ave., San Francisco, CA 94124. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in 21 CFR part 573, *Food Additives Permitted in Feed and Drinking Water of Animals,* to provide for the safe use of ethyl cellulose as a matrix scaffolding in tracers for use in feeds at no more than 0.09 grams per ton of feed (0.1 ppm).

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist that may significantly affect the quality of the human environment. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02449 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 585

[Docket No. BOEM–2023–0005]

RIN 1010–AE04

Renewable Energy Modernization Rule; Correction

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Proposed rule; correction.

SUMMARY: This document makes a technical correction in the preamble to a proposed rule entitled, Renewables Energy Modernization Rule, which the Department of the Interior published in the **Federal Register** on January 30, 2023. This correction clarifies that the proposed rule's FDMS Docket Number is BOEM–2023–0005.

DATES: February 6, 2023.

FOR FURTHER INFORMATION CONTACT: Georgeann Smale, Renewable Energy Modernization Rule Lead, Office of Regulations, BOEM, at telephone number 703–544–9246 or email address *Georgeann.Smale@boem.gov;* or Karen Thundiyil, Chief, Office of Regulations, BOEM, at telephone number 202–742–0970, or email address *Karen.Thundiyil@boem.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 2023–00668, beginning on page 5968 in the **Federal Register** issue of January 30, 2023, the following corrections are made:

1. On page 5968, in the first and second columns, in the **ADDRESSES** section, the text ''BOEM–2022–0019'' is corrected to read ''BOEM–2023–0005''.

2. On page 5968, in the second column, in the **ADDRESSES** section, the text ''BOEM–2020–0033'' is corrected to read ''BOEM–2023–0005''.

3. On page 5969, in the second column, in footnote 2, the text ''*https://www.regulations.gov/docket?D=BOEM-2020-0033*'' is corrected to read ''*https://www.regulations.gov/docket?D=BOEM-2023-0005.*''

4. On page 5971, in the first column, in paragraph (a) of section 5, the text ''BOEM–2020–0033'' is corrected to read ''BOEM–2023–0005''.

5. On page 6014, in the third column, in footnote 95, the text ''*https://www.regulations.gov/docket?D=BOEM-2020-0033*'' is corrected to read ''*https://www.regulations.gov/docket?D=BOEM-2023-0005.*''

6. On page 6018, in the first column, in footnote 102, the text ''*https://www.regulations.gov/docket?D=BOEM-2020-0033*'' is corrected to read ''*https://www.regulations.gov/docket?D=BOEM-2023-0005.*''

7. On page 6019, in the first column, in footnote 108, the text ''*https://www.regulations.gov/docket?D=BOEM-2020-0033*'' is corrected to read ''*https://www.regulations.gov/docket?D=BOEM-2023-0005.*''

Elizabeth Klein,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2023–02398 Filed 2–3–23; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2022–0150; FF09E21000 FXES11130900000234]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Three Petitions To Delist the Grizzly Bear in the Lower-48 States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition findings and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce three 90-day findings on petitions to delist the grizzly bear in the lower-48 States (*Ursus arctos horribilis*) under the Endangered Species Act of 1973, as amended (Act). One petition requests delisting the grizzly bear in the lower-48 States, and the other two petitions request delisting populations in two specific ecosystems, the Northern Continental Divide Ecosystem (NCDE) and the Greater Yellowstone Ecosystem (GYE). Based on our review, we find that the petitions pertaining to the two ecosystems present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate a status review to determine whether the petitioned actions are warranted. To ensure that the status review is comprehensive, we are requesting new scientific and commercial data and other information regarding the grizzly bear in the NCDE and GYE and factors that may affect its status in those ecosystems, including the adequacy of existing regulatory mechanisms to address threats now and in the foreseeable future. Based on the status review, we will issue a 12-month petition finding, which will address whether or not the petitioned actions are warranted, in accordance with the Act. If we ultimately do find that one or more of the petitioned actions is warranted and proceed to propose to delist one or more distinct population segments (DPSs), we will consider the effects of any proposed delisting on the ongoing recovery of the larger listed entity of grizzly bears. We also found that a petition to delist the grizzly bear in the lower-48 states on the basis of it not being a valid listable entity did not present substantial scientific or commercial information indicating that the petitioned actions may be warranted; therefore, we will take no further action on that petition.

DATES: The findings announced in this document were made on February 6, 2023.

ADDRESSES:

Supporting documents: A summary of the basis for the petition findings contained in this document is available on *https://www.regulations.gov* in Docket No. FWS–R6–ES–2022–0150. In addition, this supporting information is available by contacting the person specified in **FOR FURTHER INFORMATION CONTACT**.

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, the grizzly bear in the NCDE and GYE or its habitats, particularly new information available since our March 30, 2021, 5-year status review, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R6–ES–2022–0150, which is the docket number for this action. Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment.'' If your information will fit in the provided comment box, please use this feature of *https://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R6–ES–2022–0150, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. Any information we receive during the course of our status review will be considered, and we will post all information we receive on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT: Hilary Cooley, Grizzly Bear Recovery Coordinator, Grizzly Bear Recovery Office, telephone: 406–243–4903, email: *hilary_cooley@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Information Submitted for a Status Review

You may submit your comments and materials concerning the status of, or threats to, the grizzly bear in the NCDE and GYE or its habitats, by one of the methods listed above in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you

may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing these findings, will be available for public inspection on *https://www.regulations.gov.*

Background

Section 4 of the Act (16 U.S.C. 1533 *et seq.*) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the Lists (*i.e.,* ''list'' a species), remove a species from the Lists (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

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

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

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

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

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 use the term ''threat'' to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. 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) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in a petition to delist a species must include evidence sufficient to suggest that these threats may no longer be affecting the species to the point that the species may no longer meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species—level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect 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 are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act. If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review.

History of the Petitions Received

On December 17, 2021, we received a petition from the State of Montana to designate and delist a Northern Continental Divide Ecosystem distinct population segment (DPS) of the grizzly bear under the Act. The NCDE occurs only in Montana. On January 21, 2022, we received a petition from the State of Wyoming to designate and delist a Greater Yellowstone Ecosystem DPS of the grizzly bear under the Act. The GYE occurs in portions of Wyoming, Montana, and Idaho. On March 9, 2022, we received a petition from the State of Idaho to delist the grizzly bear in the lower-48 States. All three petitions clearly identified themselves as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses all three petitions.

Summary of Petition Findings

Evaluation of a Petition To Designate and Delist an NCDE DPS of Grizzly Bear

The grizzly bear is currently listed in 50 CFR 17.11(h) as a threatened species in the lower-48 States (see 40 FR 31734; July 28, 1975). The State of Montana's petition requests that we designate and delist an NCDE DPS of the grizzly bear in the lower-48 States. We find that the petition presents substantial information that the NCDE may qualify as a DPS. Additionally, we find that the petition presents substantial information that the population size and trends have improved and that threats have been reduced in the NCDE such that the population may no longer meet the definition of a threatened species under the Act. Therefore, we find that the petition presents substantial information that the petitioned action, designating and then delisting an NCDE DPS, may be warranted and we will commence a status review to determine if the action is warranted. During our status review, we will fully evaluate all relevant threats and conservation actions in detail based on the best scientific and commercial data available, including newly enacted State regulations in the State of Montana, such as MCA 87–6–106. We will determine whether these and other existing state regulatory mechanisms are adequate to address the threat of increased human-caused mortality such that an affected DPS is not in danger of extinction now or likely to become so within the foreseeable future throughout all or a significant portion of its range.

Evaluation of a Petition To Designate and Delist a GYE DPS of Grizzly Bear

The State of Wyoming's petition requests that we designate and delist a GYE DPS of the grizzly bear in the lower-48 States. We find that the petition presents substantial information that the GYE may qualify as a DPS. Additionally, we find that the petition presents substantial information that the population size and trends have improved and that threats have been reduced in the GYE such that the population may no longer meet the definition of a threatened species under the Act. Therefore, we find that the petition presents substantial information that the petitioned action, designating and then delisting a GYE DPS, may be warranted and we will commence a status review to determine if the action is warranted. Our status review will evaluate all relevant threats and conservation actions in detail based on the best scientific and commercial data available, including whether existing state regulatory mechanisms, such as controls on human-caused mortality or implementation of recalibration, are adequate to support a finding that a GYE DPS is not in danger of extinction now or likely to become so within the foreseeable future throughout all or a significant portion of its range.

Evaluation of a Petition To Delist the Grizzly Bear in the Lower-48 States

The State of Idaho's petition requests that we delist the grizzly bear in the lower-48 States. The petition asserts that the currently listed entity, the grizzly bear in the lower-48 States is not a valid DPS and, therefore, does not meet the Act's definition of a ''species'' and it should be delisted on that basis. The petitioner did not make any claims related to the biological status of or threats to the grizzly bear in the lower-48 States. Specifically, the petitioner claims that the listed entity: (1) does not identify a grizzly bear population; (2) does not identify a population that interbreeds when mature; and (3) is not discrete from grizzly bears in Canada. As summarized in our petition response form, the petitioner failed to present any credible scientific or commercial information with respect to certain claims; therefore, we do not consider the petition to present substantial information supporting those claims. With respect to the remaining claims, for the reasons discussed in our petition response form we conclude that the petitioner failed to present credible scientific or commercial information such that a reasonable person conducting an impartial scientific review would conclude that removing the grizzly bear in the lower-48 States from the List of Endangered and Threatened Wildlife may be warranted. Therefore, we find that the petition does not provide substantial information that the petitioned action may be warranted.

Evaluation of Information Summary and Finding

We reviewed the petitions, sources cited in the petitions, and other readily available information. We considered the factors under section 4(a)(1) of the Act and assessed the effect that the threats identified within the factors may have on the grizzly bear in the lower-48 States now and in the foreseeable future. We also considered existing regulatory mechanisms or conservation efforts that may ameliorate, reduce, or exacerbate the threats. Based on our review of the petitions and readily available information regarding the improvement in condition and reduction of threats in the NCDE and GYE, we find that the two petitions concerning the NCDE and GYE present credible and substantial information that the petitioned actions may be warranted.

We appreciate the three States' historical commitment to recover grizzly bears, particularly conflict prevention efforts that have been effective in reducing human-caused mortality, and we hope that these efforts will continue and expand as needed to provide for effective management of these populations in the future. Although notable progress has been made to address deficiencies in future state management identified by the courts, the impact of recently enacted state statutes affecting these two grizzly bear populations is of concern and will require careful consideration. We will fully evaluate these and all other potential threats and associated state regulatory mechanisms, as well as the validity of each DPS, in detail based on the best scientific and commercial data available when we conduct the status assessment and make the 12-month finding.

In accordance with the requirements of the statute, our 12-month findings on the two petitions to identify and delist DPSs (the NCDE and GYE) will be based upon the best scientific and commercial data available and will not be limited to the information presented in the petitions. Similarly, if we make one or more ''warranted'' 12-month findings, we will identify the DPS or DPSs in that finding on the basis of the best scientific and commercial data available; we will not be limited to the possible DPSs described in the petitions. If we ultimately do find that one or more of the petitioned actions is warranted and proceed to propose to delist one or more DPSs, we will consider the effects of any proposed delisting on the ongoing recovery of the larger listed entity of grizzly bears.

Finally, we find that the petition from the State of Idaho does not present substantial information that the grizzly bear in the lower-48 States is not a valid ''species'' as defined by the Act.

The basis for our finding on these petitions, and other information regarding our review of the petitions, including the 2011 and 2021 5-year status reviews, can be found at *https://www.regulations.gov* under Docket No. FWS–R6–ES–2022–0150 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that two of the three petitions summarized above for the grizzly bear in the lower-48 States present substantial scientific or commercial information indicating that the petitioned actions for the GYE and the NCDE may be warranted. We are, therefore, initiating a status review of the grizzly bear in the GYE and NCDE to determine whether the actions are warranted under the Act. At the conclusion of the status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether other species are an endangered or threatened species.

Authors

The primary authors of this document are staff members of the Grizzly Bear Recovery Office, Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2023–02467 Filed 2–3–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 230126–0027]

RIN 0648–BK09

Fisheries off West Coast States; Highly Migratory Fisheries; Amendment 6 to the Fishery Management Plan for West Coast Fisheries for Highly Migratory Species; Authorization of Deep-Set Buoy Gear

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would implement Amendment 6 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP), which authorizes deep-set buoy gear (DSBG) as a legal gear type for targeting swordfish and catching other highly migratory species (HMS) off the U.S. West Coast. The proposed rule would establish a limited entry (LE) permitting regime for use of DSBG in the Southern California Bight (SCB). DSBG fishing would be permitted on an open-access basis outside of the SCB, in Federal waters off of California and Oregon, for all vessels possessing a general HMS permit with a DSBG endorsement. DSBG fishing would not be permitted in Federal waters off of Washington. This proposed rule includes definitions for two configurations of DSBG—standard and linked—and specifies the LE management area, permitting process, and requirements for use of the gear.

DATES: Comments on the proposed rule and supporting documents must be submitted in writing by March 8, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0141, via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0141 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Please submit written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule and subject to the Paperwork Reduction Act to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review'' or by using the search function and entering the title of the collection or the OMB Control Number. Comments on the information collection requirements may also be sent by email to *WCR.HMS@noaa.gov.*

Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: *https://www.regulations.gov,* docket NOAA–NMFS–2022–0141, or contact the Acting Highly Migratory Species Branch Chief, Rachael Wadsworth, *Rachael.Wadsworth@noaa.gov,* or *WCR.HMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Amber Rhodes, NMFS, (202) 936–6162, *Amber.Rhodes@noaa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

Currently, two commercial gear types are authorized to target swordfish in Federal waters off the U.S. West Coast: harpoon and large-mesh drift gillnet (DGN). Of the two, DGN has produced the majority of the landings to West Coast ports. However, attrition in the DGN fishery has led to reduced swordfish landings by West Coast-based fishing vessels. The large majority of swordfish demand on the West Coast is currently met by Hawaii-based longline vessels, and by imports. Motivated by reduced participation in the U.S. West Coast swordfish fishery and increased reliance on foreign supplies of swordfish to meet U.S. consumer demand, NMFS and the Pacific Fishery Management Council (hereafter, the Council) expressed interest in new gear types for targeting swordfish and other HMS while minimizing interactions with protected species and bycatch of non-target finfish.

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.,* the Council provides recommendations to NMFS regarding Fishery Management Plans and regulations to implement them. Existing regulations allow for the issuance of exempted fishing permits (EFP) for limited testing, data collection, and the target or incidental harvest of species using methods otherwise prohibited (*see* 50 CFR 600.745(b)). In 2014, the Council solicited EFP applications to test gear types or methods that could serve as an alternative to using DGN to catch swordfish in the U.S. West Coast Exclusive Economic Zone (EEZ), or to test different approaches to contemporary DGN fishery management practices. The Council received EFP applications to fish with DSBG. DSBG research trials had been underway since 2011, and EFP trials began in 2015 following a Council recommendation to issue DSBG EFPs. The results of these trials indicated DSBG could be a viable commercial fishing method with low environmental impacts. The Council also recommended issuance of EFPs for other gear types in addition to DSBG; however, comparatively fewer data have been collected from these gear types to-date. During the course of EFP fishing, DSBG-caught swordfish has typically fetched a higher price per pound than swordfish caught using DGN or longlines, or by foreign nations and imported. However, the catch per day of swordfish using DSBG is variable, ranging from zero to as many as 11 fish in a single day, with an average of 1.2 fish per day from 2015–2020.

Following the results of DSBG trials, the Council recommended authorizing the gear under the HMS FMP and implementing regulations.

DSBG employs a hook-and-buoy system to catch swordfish while they are feeding during the daytime in deep water, with hooks commonly set at depths below 250 meters. DSBG configurations include ''standard'' buoy

gear (SBG) and ''linked'' buoy gear (LBG). SBG configurations consist of strike indicator buoys deployed at the surface, a vertical mainline, baited circle hooks at depth, and a weighted sinker to ensure that hooks reach depth rapidly. LBG configurations include additional sub-surface branch lines connecting the various strike indicator buoys and more hooks at depth.

The proposed rule is expected to contribute to the management of the U.S. West Coast swordfish fishery according to the National Standards for fishery conservation and management under the MSA (*see* 16 U.S.C. 1851(a) and 50 CFR part 600, subpart D). Specifically, authorizing DSBG as an additional legal gear type for commercially harvesting swordfish from Federal waters off the U.S. West Coast will contribute to the U.S. West Coast swordfish fishery's capacity to achieve optimum yield of the Western and Central North Pacific swordfish stock (consistent with National Standard 1). This stock is currently underutilized with spawning stock biomass at nearly double maximum sustainable yield (MSY) levels, and fishing effort at roughly half of the MSY level, according to the most recent stock assessment completed by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC) in 2018, which can be accessed here: *https://isc.fra.go.jp/pdf/ISC18/ISC_18_ANNEX_16_Stock_Assessment_of_WCNPO_Swordfish_through_2016_FINAL.pdf.* Despite high consumer demand, over 80 percent of swordfish consumed in U.S. West Coast States has come from foreign sources since 2015. While the Council has expressed interest in reducing reliance on foreign supplies of swordfish, the Council has also indicated that minimizing bycatch to the extent practicable (consistent with National Standard 9) is a priority.

II. Council Process and Recommendations

After a series of public meetings to develop and evaluate alternatives for a proposed action, the Council adopted its final preferred alternative for authorizing DSBG in September 2019. The Council recommended that NMFS permit an open access fishery outside of the SCB and a LE fishery inside the SCB, with a maximum of 300 LE permits to be issued. For the purpose of this proposed rule, the SCB is defined by a northern boundary of 34°26′54.96″ N latitude (*i.e.,* Point Conception, CA), a southern boundary of the U.S.-Mexico maritime border, and a western boundary of 120°28′18″ W longitude. To date, 99 percent of DSBG EFP fishing effort has occurred in this area. During the relevant Council meetings, stakeholders raised concerns about the potential for gear conflicts and crowding to occur in the SCB following DSBG authorization. The Council selected its final preferred alternative, including a LE permitting regime with tiered qualifying criteria intended to prioritize participants with demonstrated swordfish fishing experience, as a means to authorize DSBG use in the SCB with a precautionary, ''phased-in'' approach. At its March 2021 Meeting, the Council modified the tiered criteria by which applicants must qualify to receive LE permits, and clarified some of the terminology used in its earlier September 2019 recommendation.

In addition to the Council's original recommendation for DSBG management measures in September 2019 and March 2021, NMFS proposes some additional regulations in this proposed rule for the purpose of monitoring fishery compliance with the Endangered Species Act, (16 U.S.C 1531, *et seq.*). NMFS alerted the Council to the rationale for these measures during its March 2022 meeting, and describes them in more detail in the next section. Lastly, additional management measures contained in 50 CFR part 300, subpart C (applicable to eastern Pacific tuna fisheries) and 50 CFR part 660, subpart K (applicable to all HMS fisheries off the West Coast States, which apply to fishing under HMS permits more broadly (*i.e.,* annual catch limits on HMS and monitoring provisions)) may also apply to DSBG fishing under the proposed rule.

III. Discussion of the Proposed Rule

Consistent with the Council's recommendations, this rule proposes to authorize DSBG as a legal gear type under the HMS FMP, and to enable permitting of an open access fishery in Federal waters south of the Oregon-Washington border outside of the SCB, and a LE fishery in the SCB. The proposed regulations for issuing LE permits include tiered qualifying criteria recommended by the Council. Fishing with DSBG would also be subject to a suite of gear specifications and management measures. This rule also proposes to implement a few additional measures that are necessary to carry out the Council's recommendations in accordance with section 7 of the Endangered Species Act and to revise the current definitions in § 660.702 of ''commercial fishing,'' to make a minor grammatical change, and of ''commercial fishing gear,'' to include DSBG. Several new definitions are also proposed as applicable to the rule. Finally, this rule proposes to update corresponding prohibitions listed in § 660.705.

A. Gear Endorsements

Existing regulations at 50 CFR 660.707(a) require commercial fishing vessels that fish for HMS in Federal waters off of California, Oregon, and Washington to be registered for use under a general HMS permit that authorizes the use of specific gear. This rule proposes to prohibit fishing with DSBG in Federal waters off of the State of Washington (*see* proposed § 660.715(d)(1)). Therefore under the proposed rule, gear endorsements for DSBG will be required under the existing Federal general HMS permit regulations to fish with DSBG in Federal waters south of a line extending seaward of the Oregon/Washington border (*i.e.,* off of the States of California and Oregon). Additionally, this rule proposes to require possession of a valid LE DSBG permit to fish with DSBG in Federal waters inside the SCB (*see* proposed § 660.715(d)(2)), which is further described in the next section.

B. Limited Entry Permit

Consistent with the Council's recommendations, this proposed rule stipulates specifications and limitations on qualifying for, issuing, possessing, renewing, and transferring LE permits. This proposed rule also poses a change to contact information provided in the existing regulation at § 660.707(b)(3) for obtaining permit applications. To obtain an LE permit, an applicant will need to apply and qualify for one as part of the initial issuance process described below.

1. Ownership Requirements and Limitations (Proposed §§ 660.707(g)(1) Through (3))

LE permits will be issued to and held by a ''person,'' as defined at 50 CFR 660.702 to mean any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a). A person shall only hold one LE permit, in whole or in part, including through ownership interest in a partnership, corporation, or other entity. For example, if John Doe holds a permit in their own name, they cannot also hold a permit as a member of a partnership or corporation or other entity. For purposes of enforcing this limitation, partial ownership ''counts''

as full ownership. For example, if John Doe holds 25 percent ownership of one permit and 25 percent ownership of another permit, that would be considered ownership of two permits, not 50 percent of one permit. To monitor and enforce this requirement, permit holders applying for initial issuance or renewal of an LE permit will be required to submit information on ownership interest as part of their LE permit application, which documents those persons that have an ownership interest in the LE permit.

If after issuance of permits, a person is found to have an ownership interest in more than one LE DSBG permit, NMFS will notify them in writing and provide 90 days to divest of the excess permit ownership interest. Once divested, NMFS will void the permit(s) owned by that person and reissue them to the next eligible applicant with vessel status as ''unidentified.'' During the 90-day divestiture period, the person could surrender permit(s) in excess of the permit ownership limit to NMFS by submitting a request in writing. After the 90-day divestiture period, NMFS will revoke all LE DSBG permits held by that person (including any person who has ownership interest in the entities listed as owners on the permit) in excess of the permit ownership limit. Surrendered and revoked permits will be issued to the next eligible applicant following the process for initial issuance.

2. Vessel Registration (Proposed §§ 660.707(g)(2) and (6))

A particular vessel must be designated for use with the permit before the permit could be used to fish with DSBG, and that vessel must have a valid HMS permit with a DSBG endorsement. The vessel does not need to be owned by the LE permit owner. An HMS permit holder is not required to be onboard the vessel during DSBG fishing. Likewise, an LE permit holder is not required to be onboard the vessel during DSBG fishing in the SCB. A vessel may be designated on (*i.e.,* registered to) multiple LE permits, but only one LE permit can be fished on a vessel at a time.

If a permit owner wants to use a permit with a vessel other than the one registered for use with that permit, the permit owner must request a change in vessel registration. Changes in the designated vessel will only be allowed once per year, except in the case of a force majeure event or if a permit holder decides not to designate a vessel (*i.e.,* undesignated). A force majeure event means an event of extraordinary circumstances including the death of a vessel owner or operator, or when a designated vessel at sea (except while transiting between ports on a trip during which no fishing operations occur) is disabled by mechanical or structure failure, fire or explosion, or the designated vessel is totally lost. Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk, or the costs of repair (including recovery) exceed the value of the vessel after repairs. If a permit owner chose not to designate a vessel it would not count as a change in vessel registration if they then decide to designate a vessel. However, once the vessel is designated, the permit owner will only be able to transfer registration once in the calendar year.

To designate a vessel or change the registration for a vessel, the permit owner must submit a vessel registration transfer application through the NOAA Fisheries Permits website at *https://fisheriespermits.noaa.gov/npspub/pub_cmn_login/index_live.jsp.* If the application for a change in vessel registration is not approved, NMFS will issue an initial administrative determination (IAD) that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at § 660.707(b)(3)(iv).

3. Change in Permit Ownership (Proposed § 660.707(g)(7))

LE permits cannot be transferred, except for a one-time transfer to a family member upon the death or legal incapacitation of the permit holder. A family member is defined as spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin. One-time transfers also apply to the member of a partnership, corporation, or other entity. For example, if John Doe is a member of a partnership with Jane Smith, and John Doe died, John Doe's ownership interest could pass to a family member while Jane Smith's ownership interest remains unchanged. Changes to ownership, including the addition of individuals or entities as owners of the permit, will otherwise not be allowed. NMFS will not consider it an ownership change if shares among the existing owners changes or if a member of a partnership, corporation, or other entity leaves and is not replaced. To transfer a LE permit, the permit owner would submit a permit transfer application through the NOAA Fisheries Permits website at *https://fisheriespermits.noaa.gov/npspub/pub_cmn_login/index_live.jsp.* If the application for a change in vessel registration is not approved, NMFS will issue an IAD that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at § 660.707(b)(3)(iv).

4. Term of Permits, Permit Renewal Process, and Permit Replacement (Proposed § 660.707(g)(4) and (5))

LE permits will be effective for one year (May 1–April 30) and will be required to be renewed each year to remain valid. The permit owner will be responsible for renewing a LE permit. To renew a LE permit, the permit owner must submit a permit renewal application through the NOAA Fisheries Permits website: *https://fisheriespermits.noaa.gov/npspub/pub_cmn_login/index_live.jsp.* Permit renewals will be due by May 31st. If an LE permit is not renewed by May 31st, it will expire. A LE DSBG permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by August 31 (three months after the renewal application deadline) and NMFS determines that failure to renew was proximately caused by illness, injury, or death of the permit owner. NMFS will forfeit a LE permit that is not renewed and issue it to the next eligible applicant following the process for initial issuance of LE permits.

A paper copy of a permit must be kept on the vessel at all times and must be available to members of NMFS Office of Law Enforcement upon request. Any permit that is lost or damaged may be replaced for free by contacting the NMFS permits staff at *wcr-permits@noaa.gov* and requesting a new copy of the permit. Permits which are altered, erased or mutilated would be deemed invalid and must be replaced.

5. Permit Fees and Sanctions (Proposed § 660.707(g)(8) and (9))

NMFS will charge fees to cover administrative expenses related to issuance of permits including initial issuance, renewal, permit registration, vessel registration, replacement, and appeals. The amount of the fee is calculated biennially in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

NMFS will make initial decisions regarding issuing, renewing, and transferring LE permits. Any adverse

decision will be made in writing and will state the reasons for the adverse decision. NMFS may decline to act on an application for issuing, renewing, transferring, or designating a vessel on a limited entry permit and will notify the applicant if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D apply.

C. Process for Initial Issuance of Limited Entry Permits

LE DSBG permits will be issued in two phased regimes. The first phase will be an initial, one-time qualification process for applicants meeting the criteria laid out by the Council for Tiers 1–8 (*see* proposed § 660.707(g)(11)). The second phase will be an annual application process for applicants under Tier 9 (see proposed § 660.707(g)(12)). NMFS would issue 50 permits the first year, followed by 25 permits each year after, up to 300 permits in total. If at any time, NMFS and/or the Council determine that the maximum number of permits should be less than 300, NMFS will engage in rulemaking to specify the alternate maximum number of permits to be issued.

1. Application Process for Tiers 1–8

After publication of the final rule, applicants will be able to apply to NMFS to be considered for an LE DSBG permit under Tiers 1–8. Applications will be available through the NMFS permits website and will be due to NMFS 60 days after publication of the final rule. This will be a one-time application opportunity to qualify for an LE permit under Tiers 1–8. An applicant that fails to submit a complete application by the deadline forgoes their opportunity to obtain a permit under Tiers 1–8, and their permit may be issued to the next person in line following the initial issuance procedures. An applicant that misses the application deadline for Tiers 1–8, is denied, or otherwise does not qualify for a permit under Tiers 1–8 could apply for a permit under Tier 9.

To qualify for a permit under Tiers 1–8, applicants have to be eligible to own a permit, in compliance with ownership limitations, and meet the criteria for one of the qualification Tiers 1–8 laid out by the Council. Descriptions of Tiers 1–8 as defined by the Council, the data that will be used to evaluate them, and how NMFS will apply are described in more detail below.

Tier 1: Tier 1 consists of EFP holders with at least 10 documented calendar days of DSBG fishing effort by December 31, 2018, based on NMFS West Coast Region Observer Program records indicating either that the EFP holder was the vessel captain for that fishing day, or that fishing effort for that day was conducted on a vessel owned by or under the EFP managed by that individual. An ''EFP holder'' means any individual with NMFS approval to captain a commercial vessel and use DSBG under the authority of a DSBG EFP or any individual who is identified by NMFS as having managed a DSBG EFP, including vessel owners whose vessel fished under the authority of a DSBG EFP. NMFS would consider eligible fishing effort for vessel owners, captains, and EFP managers cumulatively across EFP vessels. For example, a captain that fished 5 days of DSBG effort on one vessel and 5 days on another vessel would be considered to have met the qualification for 10 days of DSBG effort. Similarly, a vessel owner that owns multiple vessels that fished DSBG may use the sum of DSBG days fished by all their vessels to meet the 10-day requirement. The same applies to EFP managers that managed multiple vessels. A vessel owner will only receive credit for qualifying effort by the vessel during the time of their ownership. For example, a vessel owner that purchases an EFP vessel will not be able to qualify for a permit based on the vessel's history under a prior vessel owner.

Tier 2: Tier 2 consists of California LE DGN Shark and Swordfish permit holders who made at least one large-mesh DGN swordfish landing between the 2013–2014 and 2017–2018 fishing seasons and surrendered their state or Federal LE DGN permit as part of a DGN permit trade-in or buy-back program. NMFS will qualify individuals for this tier based on California Department of Fish and Wildlife (CDFW) marine landing receipts and buyback records and NMFS and CDFW permit information.

Tier 3: Tier 3 consists of EFP holders approved by the Council prior to April 1, 2021, who conducted at least 10 calendar days of DSBG fishing effort or with 10 days of DSBG effort on their vessel or by vessels they managed under the EFP by the effective date of the final rule implementing the LE DSBG permit. NMFS will qualify individuals for this tier based on a NMFS West Coast Regional Observer Program record or a properly submitted NMFS DSBG EFP logbook indicating that the EFP holders was either a vessel captain for fishing days or an EFP manager or owner, or both, of the vessel that conducted the fishing effort. The definition of an EFP holder is the same as for Tier 1. As with Tier 1, NMFS would consider the cumulative effort of captains, vessel owners, and EFP managers across vessels to meet the 10-day effort qualification. Tier 3 will consider trips through the effective date of the final rule. To enable timely review of applications and issuance of LE permits, logbooks for trips landed on the effective date of the final rule will need to be submitted within 7 days of landing to be considered under this tier. Logbooks submitted after the deadline may not be considered in qualifying applicants for Tier 3.

Tier 4: Tier 4 consists of California Swordfish permit holders who possessed a permit during the 2018–2019 fishing season and made at least one swordfish landing using harpoon gear between the 2013–2014 and 2017–2018 fishing seasons. NMFS will qualify individuals for this tier based on CDFW permit and marine landing receipt records.

Tier 5: Tier 5 consists of California LE DGN Shark and Swordfish permit holders who made at least one large-mesh DGN swordfish landing between the 2013–2014 and 2017–2018 fishing seasons and who did not surrender their state or Federal LE DGN permit as part of a trade-in or buy-back program. NMFS will qualify individuals for this tier based on CDFW marine landing receipt and buyback records and NMFS and CDFW permit information.

Tier 6: Tier 6 consists of California LE DGN Shark and Swordfish permit holders who have not made a swordfish landing with large-mesh DGN gear since March 31, 2013, and who surrender their state or Federal LE DGN permit as part of a permit trade-in or buy-back program. NMFS will qualify individuals based on CDFW marine landing receipt and buyback records and NMFS and CDFW permit information.

Tier 7: Tier 7 consists of state or Federal LE DGN permit holders who have not made a swordfish landing with DGN gear since March 31, 2013, and did not surrender their LE DGN permit as part of a state or Federal LE DGN permit trade-in or buy-back program, based on CDFW marine landing receipts and buyback records and NMFS and CDFW permit information.

Tier 8: Tier 8 consists of any individual with documented commercial swordfish fishing experience between January 1, 1986, and the effective date of the final rule, on a first come, first served basis. NMFS will qualify individuals for this tier based on CDFW permit records showing possession of a valid commercial fishing license on that date and one of the following:

(*i*) A valid CDFW marine landing receipt identifying the individual as the fisherman of record;

(*ii*) A valid state or Federal logbook where swordfish were taken and identifying the individual as captain or crew on that day; and

(*iii*) A signed affidavit from a vessel owner or captain identifying the individual as vessel captain or crew on the day that swordfish were taken.

For purposes of the Tier 1–8 initial issuance qualification, NMFS intends to use NMFS permit, EFP, observer program, and logbook records; CDFW permit and buyback records; and marine landing receipts. Applicants will be able to review these records before NMFS ''freezes'' the databases for purposes of qualification. ''Freezing'' the database means that NMFS intends to extract a dataset from NMFS and CDFW databases 60 days after publication of the final rule and use that dataset for the Tier 1–8 qualification for LE DSBG permits. Potential applicants have been on notice since 2018 that the Council has been developing a LE permit qualification for DSBG and have been able to review their data and records with NMFS and CDFW since that time. NMFS also specified at the March 2021 Council meeting the data we intend to use from NMFS and CDFW records to calculate LE permit eligibility and that we plan to provide applicants the opportunity to review and correct their data before we take a snapshot of the database for the purpose of qualification. If potential applicants have concerns over the accuracy of the records that will be used for qualifications, they should contact NMFS or the appropriate state responsible for those records. Any revisions to an entity's records will have to be approved by NMFS or CDFW and completed as of the date we freeze the database in order for the updated information to be used for the qualification process. Points of contact are as follows:

(1) NMFS—Karen Palmigiano (562–980–4043 or *wcr-permits@noaa.gov*) for WCROP, logbook, and EFP records.

(2) California—Elizabeth Hellmers (*MFSU@wildlife.ca.gov*) for CDFW license, DGN buyback, and marine landing receipt records.

NMFS anticipates that some individuals may qualify multiple times under the same tier or different tiers. For example, a vessel owner may have eligible effort as a vessel owner and as a captain. However, a person will only be allowed to hold one LE permit. To comply with this requirement, NMFS will qualify an individual meeting multiple tiers based on their highest tier, with Tier 1 being highest, Tier 2 second highest, and so forth. NMFS also anticipates that some individuals may qualify multiple times under different names. NMFS will use ownership interest information submitted with the initial applications to identify such individuals. Individuals found to have an ownership interest in multiple qualifying entities will be notified by NMFS in writing and will have 30 days to divest of the excess permit ownership interest and resubmit their application package. For example, John Doe owns a vessel in partnership with Jane Smith and qualifies as a vessel owner. John Doe also operates the vessel and meets the qualification criteria as a captain. However, John Doe shall only receive one permit. Therefore, John Doe must decide whether to relinquish ownership interest in the partnership's permit or relinquish his individual permit. If John Doe relinquishes his interest in the partnership's permit, Jane Smith can resubmit her application to qualify for a permit based on the partnership's history.

In addition to determining whether an applicant meets the qualification criteria to receive a permit, NMFS will rank qualified applicants within each tier to determine when they will receive a permit. Applicants that qualify in Tiers 1–5 will be ranked according to their total swordfish landings for the period and gear specified by the tier. Applicants that qualify in Tiers 6–8 will be ranked on a first come, first served basis. Per the Council's recommendation, NMFS may issue 50 LE permits in year 1 and 25 additional permits each year after with reissuance of permits that were either surrendered, revoked, or expired beyond the annual caps up to 300 valid permits in total, unless the Council recommends or NMFS determines that the maximum number of permits should be fewer than 300.

For complete applications, NMFS will send the applicant an IAD notifying the applicant of its decision to issue or deny them a permit. If approved, the IAD will also provide the applicant their ''rank,'' or place in line for receiving a permit, and the approximate year NMFS expects to issue them a permit. If the application is denied, the IAD will explain why and notify the applicant of their right to appeal NMFS' decision and the procedures to do so.

Approved applicants will be responsible for keeping their contact information up to date with NMFS to enable NMFS to contact them when the time comes to receive their permit. Permits will be emailed on or about April 1 of each year for the upcoming May 1 season to the address on record. If a permit is returned to NMFS as undeliverable, NMFS will make further attempts to contact the permit holder using the contact information on file. If NMFS is not able to contact the permit holder within 30 days, the permit would be revoked and issued to the next applicant in line, according to the process for initial issuance of LE permits.

2. Application Process for Tier 9

Once the list of approved qualifiers for Tiers 1–8 has been exhausted, NMFS will begin issuing permits under Tier 9. At that time, any individual will be eligible to apply for a LE DSBG permit under Tier 9. On or about January 15 of the year NMFS anticipates accepting Tier 9 applications, NMFS will publish a notice in the **Federal Register** to notify applicants of the application opportunity. NMFS will accept applications for initial issuance of LE DSBG permits under Tier 9 on an annual basis until a total of 300 LE DSBG permits are issued, unless NMFS determines that the maximum number of permits should be fewer than 300 and publishes a subsequent rulemaking. Applications will be considered on a first come, first served basis. As with Tiers 1–8, only 25 permits will be issued each year. Approved applicants above 25 will generally be rolled over to the following year and receive priority for permit issuance the following year according to the date and time that their complete applications were received.

D. Gear Specifications

The proposed regulations authorizing DSBG would provide for the use of the gear in two configurations: SBG and LBG, as defined below (*see also* proposed § 660.715(a)).

Standard Buoy Gear—An individual piece of SBG consists of a vertical monofilament mainline suspended from a buoy-array with a terminal weight. Up to three gangions with hooks may be attached to the mainline at a minimum depth of 90 meters.

Linked Buoy Gear—An individual piece (section) of LBG consists of a monofilament mainline which extends vertically from a buoy-array (either directly or from a minimum 50 foot extender) to a weight; then horizontally to a second weight; then vertically to a minimum 50 foot extender attached to a second buoy-array. Up to three gangions with hooks may be connected to each horizontal section of the mainline, all of which must be fished below 90 meters. The pieces may be linked together by the mainline, which is serviceable between each piece of

LBG and must be suspended between links below a depth of 50 feet.

Additionally, both DSBG configurations (SBG and LBG) will need to meet the following specifications (see also proposed § 660.715(b)):

(1) *Buoy-array:* The surface buoy flotation and strike detection array consists of a minimum of three buoys (a minimum 45 lbs buoyancy non-compressible hard ball, a minimum 6 lbs buoyancy buoy, and a strike detection buoy) with no more than 6 feet of line between adjacent buoys, all connected in-line by a minimum of ⅜ inch diameter line. Use of buoy tether attachments (*e.g.,* gear with loops and/or dangling components) is prohibited. SBG and terminal LBG buoy-arrays must include a locator flag, a radar reflector, and vessel/fisher identification compliant with all current state requirements and regulations;

(2) Weights must be a minimum of 3.6 kg;

(3) Minimum size 16/0 circle hooks with not more than 10 degrees offset; and

(4) No more than ten pieces of SBG or LBG, in total, may be deployed at one time, with no more than three hooks per piece.

The minimum depth requirement is intended so that DSBG will be fished below the thermocline where it is less likely to interact with air-breathing protected species (*e.g.,* marine mammals and reptiles) and other non-target species. Limits on pieces of SBG and sections of LBG that could be deployed at any given time, in addition to other the other proposed gear specifications, are intended to reduce both the likelihood of interactions with non-target interactions species and the potential for any such interactions to result in mortality. For example, these specifications in addition to measures described in the next section provide for strike detection and active tending of gear such that the time a non-target species may be hooked or entangled is minimized.

E. Management Measures

In addition to the gear specifications described in the previous section, the Council also made several recommendations regarding operations, monitoring, and management of a DSBG fishery. This section describes proposed regulations based on the Council's recommendations.

Active Tending: All pieces of gear will be required to be maintained within a 5 nautical mile diameter circle, with the vessel no more than 3 nautical miles from the nearest piece of gear (see proposed § 660.715(c)((1)). These requirements allow the gear to be actively tended so that any strike can be attended to quickly.

Gear Deployment/Retrieval Timing: Gear will not be permitted to be deployed until local sunrise and will be required to be onboard the vessel no later than 3 hours after local sunset (*see* proposed § 660.715(c)(3)).

Use of Multiple Gears on a Single Trip: Multiple gear types may be used on the same trip as DSBG, including both SBG and LBG configurations, as long as the requirement to actively tend DSBG is met (see proposed § 660.715(c)(2)). This proposed requirement may limit the gears with which fishermen may concurrently fish with DSBG while staying within the active tending boundary. However, some other gear types may be set and retrieved on the way out to and returning from sea, and DSBG fished in between, potentially at a large distance from other gear. When fishing with multiple gear types on the same trip, retained catch must be tagged or marked to identify the gear used. This would facilitate properly attributing catch to the gear type used on a trip. Any such identification must also distinguish between fish caught with SBG versus LBG, as is required on landing receipts.

Fishery Timing: This rule does not propose to impose any restriction on the time of year the fishery is open, so it may be permitted to operate year-round.

Species Retention: This rule does not propose to prohibit the retention and landing of any species caught using DSBG, except those prohibited from retention and landing by other applicable laws and regulations.

Fishery Monitoring: Existing regulations describe requirements for the submission of logbooks (50 CFR 660.708) and obligations for any HMS-permitted vessel to accommodate a NMFS certified observer when required by the agency (50 CFR 660.719). NMFS will determine the level of observer coverage for the DSBG fishery annually, based on anticipated fishing effort and available funding.

F. Additional Proposed Regulations

In addition to gear specifications and management measures recommended by the Council, NMFS is proposing the following additional regulations for the purpose of carrying out the Council's recommendations in accordance with obligations to monitor and manage a DSBG fishery consistent with Section 7 of the Endangered Species Act.

Pre-trip Notifications: When notified by NMFS, DSBG vessel owners and operators will be required to provide notification to NMFS at least 48 hours prior to departure on a trip to fish with DSBG (*see* proposed § 660.715(c)(4)). These pre-trip notifications give NMFS the ability to place observers on vessels. NMFS will notify vessel owners and operators of this requirement prior to issuance of LE DSBG permits or HMS permits with DSBG endorsements and subsequent permit renewals.

Protected Species Workshops: When notified by NMFS, DSBG vessel operators will be required to participate in workshops to learn mitigation, handling, and release techniques for marine mammals, sea turtles, seabirds, and other protected species (see proposed § 660.715(c)(5)). NMFS will maintain a list of workshop participants, and provide documentation for participation in workshops to workshop participants. NMFS will notify vessel owners and operators of this requirement prior to issuance of LE DSBG permits or HMS permits with DSBG endorsements and subsequent permit renewals.

Area restriction for LBG: NMFS will prohibit LBG operations shoreward of a line approximating the 400m depth contour (*see* proposed § 660.715(d)(3)). This area closure is intended to reduce the threat of entanglements of protected species (primarily humpback whales) that frequent nearshore waters. This limitation on LBG was also a term and condition of DSBG EFPs.

IV. Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the HMS FMP, Amendment 6 to the HMS FMP, the MSA, and other applicable laws. In making the final determination, NMFS will consider the data, views, and comments received during the public comment period.

NMFS prepared a Draft Environmental Impact Statement (DEIS) for this action, which addresses the requirements of the National Environmental Policy Act. The DEIS, which describes the full suite of alternatives analyzed by the Council and NMFS, can be found on the NMFS website at: *www.fisheries.noaa.gov/bulletin/draft-eis-available-public-review-proposed-amendment-6-fishery-management-plan-west Draft Environmental Impact Statement.*

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this

proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed action would authorize the use of an additional gear type for targeting swordfish and other HMS under the HMS FMP. It would not preclude the use of other authorized gear types or make changes to existing regulations of other fisheries or fleets in the proposed action area (*i.e.,* in Federal waters off California and Oregon). The action is intended to provide additional economic opportunity to fishermen while minimizing the environmental impacts of any additional fishing effort with DSBG.

The tiers by which NMFS would qualify and rank issuance of LE DSBG permits under the proposed action direct priority issuance to applicants with prior DSBG or swordfish fishing experience off the U.S. West Coast. In a preliminary assessment of existing records on participation in the U.S. West Coast swordfish fishery, we found it highly unlikely that limiting the maximum number of LE permits to 300 would constrain participation in a LE DSBG fishery. Rather, what may constrain initial participation in the fishery is the ''phased-in'' schedule of permit issuance (*i.e.,* up to 50 permits issued in the first year with up to 25 issued in each additional year on a ranked basis). Therefore, some applicants may not obtain a LE DSBG permit until later years of the program.

While authorization of DSBG would likely coincide with the cessation of issuance of DSBG EFPs (according to the specifications included in the proposed action), we note that EFPs are a limited special-privilege permit with no guarantee of renewal following the permit period. Therefore, in a situation in which a former EFP holder is unable to obtain a LE permit to fish in the SCB, any lost revenues associated would be a result of the discontinuation of the EFP as opposed to this action. Furthermore, former DSBG EFP holders who do not obtain a LE permit could still obtain an open access endorsement to fish DSBG outside the SCB. Therefore, no direct private costs of the regulations are expected aside from the optional costs of obtaining DSBG gear and a permit to fish.

The tiered LE permit qualifying criteria prioritize DGN vessels that have actively participated in the DGN fishery over ''inactive'' vessels. The criteria also prioritize issuing permits to DGN permit holders who participate in a state or Federal buyout and transition program by surrendering their nets and forgoing renewal of their DGN LE permit. However, the proposed action does not require any DGN vessels to participate in a transition program, and any DGN permit holders who do not obtain a LE DSBG permit could be permitted to fish with DSBG outside of the SCB on an open access basis.

Pursuant to the Regulatory Flexibility Act (RFA) and NMFS' December 29, 2015, final rule (80 FR 81194), this certification was developed using NMFS' revised size standards. NMFS considers all entities subject to this action to be small entities as defined by this size standard. Because each affected vessel is a small business, there are no disproportional effects to small versus large entities. The proposed action, if adopted, will not have significant adverse economic impacts on these small business entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This proposed rule revises the existing requirements for three collections of information associated with the following OMB Control Numbers: (1) 0648–0204 West Coast Region Permit Family of Forms, (2) 0648–0223 U.S. Pacific Highly Migratory Species Hook and Line Logbook, and (3) 0648–0498 West Coast Region Vessel Monitoring System and Pre-Trip Reporting System Requirements.

Two changes are being made to collection of information 0648–0204. First, the addition of a DSBG endorsement to the HMS Permit, and second, the addition of a separate and entirely new LE DSBG permit for the commercial fishery. Regarding the addition of a DSBG endorsement to the HMS Permit, it is assumed that individuals who will request the DSBG endorsement on their HMS permit already have an HMS permit; thus, there would be no increase to the number of respondents. Because respondents must renew HMS permits periodically, the public reporting burden for adding a DSBG endorsement is not expected to increase. However, changes to the collection associated with the addition of a new LE DSBG permit are likely to increase the number of respondents for this collection by 150 new respondents. The public reporting burden for the initial Federal LE DSBG application is estimated to average 30 minutes per respondent. There is a requirement to report Ownership Interest Information for applicants seeking a permit as an entity, business or corporation, which is estimated to average 10 minutes per respondent. Federal LE DSBG renewals are also estimated to average 10 minutes per respondent, and transfers are estimated to average 30 minutes per respondent.

Collection of information 0648–0223 is being revised to add a Federal LE DSBG logbook for the commercial fishery. This change is not anticipated to impact the number of respondents nor the costs of this collection. Although there is a new logbook for recording DSBG activities, all anticipated DSBG respondents are assumed to have HMS permits and therefore already subject to existing logbook requirements, so that the new logbook would simply replace the logbook currently in use.

Collection of information 0648–0498 is being revised to add a pre-trip notification for vessels fishing with DSBG when requested by NMFS, increasing the total number of anticipated respondents and labor costs. Public reporting burden for pre-trip notifications is estimated to average 5 minutes per respondent. The estimated total number of respondents for this collection is 95; the estimated total annual burden hours are 191 hours (an increase of 34 hours); and the estimated total annual cost to the public for recordkeeping and reporting is $105,808 (an increase of $1,299).

NMFS seeks public comment regarding 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. NMFS also seeks public comment regarding the accuracy of the burden estimate, 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, including through the use of automated collection techniques or other forms of information technology. Please submit written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule and subject to the Paperwork Reduction Act to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review'' or by using the search function and entering the title of the collection or the OMB Control Number. Comments on the information collection requirements may also be sent by email to *WCR.HMS@noaa.gov.*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indians—lands, Recreation and recreation areas, Reporting and record keeping requirements, Treaties.

Dated: January 26, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

Subpart K—Highly Migratory Species Fisheries

■ 2. In § 660.702, add the definition for ''Change in ownership'', revise the definitions for ''Commercial fishing'' and ''Commercial fishing gear'', and add the definitions for ''Family member'', ''Force Majeure'', ''Initial Administrative Determination (IAD)'', ''Ownership Interest'', and ''Totally lost'', in alphabetical order, to read as follows:

§ 660.702 Definitions.

* * * * *

Change in ownership means the addition of a new shareholder or partner to the membership of the corporation, partnership, or other entity. A change in ownership is not considered to have occurred if a member dies or becomes legally incapacitated and a trustee is appointed to act on their behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership or other entity and is not replaced. A change in ownership is not considered to have occurred if only the name of the entity changes.

Commercial fishing means:

(1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, retaining, possessing, landing and/or selling of fish; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Commercial fishing gear includes the following types of gear and equipment used in the highly migratory species fisheries:

(1) *Deep-set buoy gear.* Line fishing gear which consists of vertical mainlines suspended from a buoy array, with gangions with hooks attached to either a vertical line or a horizontal line connected to the terminal ends of two vertical lines. All configurations must be set at or below a minimum depth and actively tended;

(2) *Drift gillnet.* A panel of netting, 14 inch (35.5 cm) stretched mesh or greater, suspended vertically in the water by floats along the top and weights along the bottom. A drift gillnet is not stationary or anchored to the bottom;

(3) *Harpoon.* Gear consisting of a pointed dart or iron attached to the end of a pole or stick that is propelled only by hand and not by mechanical means;

(4) *Pelagic longline.* A main line that is suspended horizontally in the water column and not stationary or anchored, and from which dropper lines with hooks (gangions) are attached. Legal longline gear also includes basket-style longline gear;

(5) *Purse seine.* An encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets; and

(6) *Surface hook-and-line.* Fishing gear, other than longline gear, with one or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat). Surface hook and line is always attached to the vessel.

* * * * *

Family member for the purposes of change in ownership of limited entry deep-set buoy gear permits means spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great-grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin.

Force majeure means an event of extraordinary circumstances including the death of a vessel owner or operator, or when a designated vessel at sea (except while transiting between ports on a trip during which no fishing operations occur) is disabled by mechanical or structure failure, fire or explosion, or the designated vessel is totally lost.

* * * * *

Initial Administrative Determination (IAD) means a formal, written determination made by National Marine Fisheries Service (NMFS) on an application or permit request that is subject to an appeal within NMFS.

* * * * *

Ownership interest means participation in ownership of a corporation, partnership, or other entity that owns a limited entry deep-set buoy gear permit.

* * * * *

Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk, or the costs of repair (including recovery) would exceed the value of the vessel after repairs.

* * * * *

■ 3. In § 660.705, add paragraphs (vv) through (bbb) to read as follows:

§ 660.705 Prohibitions.

* * * * *

(vv) Deploy or have onboard a vessel, deep-set buoy gear (DSBG) in contravention of gear configuration specifications described at § 660.715(a) and (b).

(ww) Own or operate a vessel used to fish with DSBG in contravention of operational requirements specified at § 660.715(c)(1) and (2).

(xx) When required under § 660.715(c)(3), fail to notify NMFS or the NMFS-designated observer provider at least 48 hours prior to departure on a fishing trip during which DSBG is deployed.

(yy) Own or operate a vessel that is engaged in DSBG fishing without record of the operator's participation in a protected species workshop as required under § 660.715(c)(4).

(zz) Own or operate a vessel used to fish with DSBG in Federal waters north of a line extending seaward of the Oregon/Washington border.

(aaa) Own or operate a vessel used to fish with DSBG in the Southern California Bight (as defined at § 660.715(d)(2)) while not in possession of a valid DSBG limited entry permit.

(bbb) Own or operate a vessel used to fish a linked configuration of DSBG shoreward of a line approximating the 400 meter depth contour (according to coordinates specified at § 660.715(d)(3)) in waters north of the Northern Channel Islands to a line extending seaward from the Oregon/Washington border.

■ 4. In § 660.707, revise paragraph (b)(3)(i) and add paragraph (g) to read as follows:

§ 660.707 Permits.

* * * * *

(b) * * *

(3) * * *

(i) A West Coast Region Federal Fisheries application form may be obtained from the West Coast Region Fisheries Permits Office or downloaded from the West Coast Region website to apply for a permit under this section. A completed application is one that contains all the necessary information, and required fees, documentation, and signatures.

* * * * *

(g) *Limited entry deep-set buoy gear (DSBG) permit*—(1) *General.* This section applies to persons (as defined at § 660.702) owning a limited entry permit to fish with DSBG (as defined at § 660.707) inside the Southern California Bight (as defined at § 660.715(d)(2) and to vessels registered to such permits. For a vessel to be used to fish with DSBG in the Southern California Bight, that vessel must be registered for use with a limited entry DSBG permit.

(2) *Basic requirements.* Limited entry DSBG permits are issued to a person, and a vessel must be specified on the permit.

(i) *Persons.* Any ''person'' as defined at § 660.702 may own a limited entry DSBG permit, subject to the ownership requirements and limitations at paragraph (g)(3) of this section.

(ii) *Vessels.* A vessel registered to a limited entry DSBG permit must also be registered to a valid general HMS permit with a DSBG endorsement issued pursuant to paragraphs (a) and (b) of this section. The designated vessel need not be owned by the limited entry DSBG permit owner. The same vessel may be registered to multiple limited entry DSBG permits, but only one permit may be fished at a time.

(3) *Ownership requirements and limitations*—(i) *Limitation on permit ownership.* No person may own more than one limited entry DSBG permit, in whole or in part, including through ownership interest in a partnership, corporation, or other entity.

(ii) *DSBG identification of ownership interest form.* Any person that owns a limited entry DSBG permit and that is applying for or renewing a limited entry DSBG permit shall document those persons that have an ownership interest in the limited entry DSBG permit. This ownership interest must be documented with NMFS via the DSBG Identification of Ownership Interest Form.

(iii) *Transferability.* Limited entry DSBG permits are not transferable, except for a one-time transfer to a family member, as defined at § 660.702, upon the death or legal incapacitation of the individual or a member of the corporation, partnership, or other entity that owns the permit, following the procedures at paragraph (g)(7) of this section. The limited entry DSBG permit owner cannot change or add additional individuals or entities as owners of the permit, or otherwise change ownership of the permit as defined at § 660.702. A transfer may not occur if such a transfer will result in a person holding more than one limited entry DSBG permit as described in paragraph (g)(3)(i) of this section.

(iv) *Divestiture, surrender, and revocation.* If NMFS discovers that a person owns or has an ownership interest in more than one limited entry DSBG permit, (including any person who has ownership interest in the entities listed as owners on the permit), NMFS will notify the permit owner that they have 90 days to divest of the excess ownership interest. During this 90-day period, the person may surrender permit(s) in excess of the permit ownership limit to NMFS by submitting a request in writing. After the 90-day divestiture period, NMFS will revoke all limited entry DSBG permits held by that person in excess of the permit ownership limit. Surrendered and revoked permits, with vessel status as ''unidentified,'' will be issued to the next eligible applicant following the procedures at paragraphs (g)(11) and (12) of this section.

(4) *Renewal.* Limited entry DSBG permits are valid for one year (May 1–April 30). Permits expire April 30 of each year and must be renewed between February 1 and March 31 of each year to remain in force the following permit year.

(i) *Renewal Notices.* NMFS will send notices to renew limited entry DSBG permits to the permit owner's most recent email address on record with NMFS. The permit owner is responsible for notifying the Fisheries Permits Office of any email address change.

(ii) *Renewal packages.* A complete limited entry DSBG permit renewal package must be received by NMFS by March 31 of each year. If a complete renewal package is not received by March 31, NMFS will not renew the limited entry DSBG permit, except under the circumstances described in paragraph (g)(4)(iii) of this section. A complete renewal package consists of a completed renewal application form, a completed DSBG Identification of Ownership Interest Form as required under paragraph (g)(3)(ii) of this section, and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The renewal package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(iii) *Forfeited permits.* A limited entry DSBG permit for which renewal is not requested will be considered expired unless the permit owner requests reissuance of the permit by June 30 (three months after the renewal application deadline) and NMFS determines that failure to renew was proximately caused by illness, injury, or death of the permit owner. If a permit is allowed to expire, it will be forfeited and NMFS may reissue the permit to another qualified applicant following the procedures at paragraphs (g)(11) and (12) of this section.

(iv) *Renewal determinations.* Based on a complete application for renewal of a limited entry DSBG permit, if NMFS determines that the applicant has met the requirements of this section and is in compliance with any other applicable regulations, NMFS will approve the renewal and issue the permit. If the application is not approved, NMFS will issue an initial administrative decision (IAD) that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(5) *Permit replacement.* Replacement permits may be issued without charge to replace lost or mutilated permits. Replacement permits may be obtained by submitting a complete permit replacement application to NMFS. An application for a replacement permit is not considered a new application. Any permit that has been altered, erased, or mutilated is invalid.

(6) *Change in vessel registration.* Limited entry DSBG permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, or replaced. A permit may not be used with any vessel other than the vessel registered for use with that permit. If the permit will be used with a vessel other than the one registered for use with the permit, the permit owner must request a change in vessel registration in accordance with paragraphs (g)(6)(ii) through (iv) of this section.

(i) *Limits on changes in vessel registration.* The registered vessel may be changed no more than once per calendar year, except in cases of a *force majeure* event as defined at § 660.702. A permit owner may also designate the vessel registration for a permit as ''unidentified,'' meaning that no vessel

has been identified as registered for use with that permit. Changing a permit's designated vessel to ''unidentified'' is not considered a change in vessel registration for purposes of this section, but the permit is not authorized for use until a subsequent change of registration out of ''unidentified'' status occurs. Any subsequent change in registration out of ''unidentified'' status to a vessel will be considered a change in vessel registration and subject to a once-per-calendar-year limit.

(ii) *Request for change in vessel registration.* To request a change in vessel registration, a permit owner must fill out a vessel transfer application online through the NOAA Fisheries Permits website with appropriate fields completed and must submit the application to the West Coast Region Fisheries Permits Office. A complete change in vessel registration package consists of a transfer application form with appropriate fields completed, a current copy of the United States Coast Guard Documentation Form or state registration form, and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The change in vessel registration package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application. A permit owner may designate the vessel registration for a permit as ''unidentified,'' meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as ''unidentified.''

(iii) *Agency determination on an application.* Based on a complete application for a change in vessel registration, if NMFS determines that the applicant has met the requirements of this section, NMFS will approve the change in vessel registration and issue the permit. Changes in vessel registration will take effect on the date that the change is approved by NMFS. If the application for a change in vessel registration is not approved, NMFS will issue an initial administrative determination that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(7) *Permit ownership transfer*—(i) *Request for change in permit ownership.* A permit owner may request change in ownership of a permit, in compliance with the limits at paragraph (g)(3) of this section, by submitting a complete transfer application package with appropriate fields completed to NMFS. A complete transfer application package consists of all of the following:

(A) A transfer application form with appropriate fields completed;

(B) For a request to change a permit's ownership where the current permit owner is a corporation, partnership or other business entity, a corporate resolution that authorizes the conveyance of the permit to a new owner and authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, or other business entity;

(C) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), a death certificate of the permit owner(s) and appropriate legal documentation that either: Specifically registers the permit to a designated individual(s); or provides legal authority to the transferor to convey the permit ownership; and

(D) Payment of required fees.

(ii) *Incomplete application.* NMFS may require additional documentation as it deems necessary to make a determination on the application for change in ownership. The renewal package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(iii) *Agency determination on an application.* Based on a complete application for change in ownership, if NMFS determines that the applicant has met the requirements of this section, NMFS will approve the change in ownership and issue the permit. Changes in permit ownership will take effect on the date that the change is approved by NMFS. If the application is not approved, NMFS will issue an initial administrative decision (IAD) that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(8) *Fees.* The Regional Administrator may charge fees to cover administrative expenses related to processing initial issuance, renewal, change in ownership, change in vessel registration, divestiture, and appeals of permits. The amount of the fee is determined in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs. A fee may not exceed administrative costs and is specified with each application form. The appropriate fee must accompany each application.

(9) *Sanctions.* NMFS may decline to act on an application for initial issuance, renewal, replacement, change in ownership, divestiture, or change in vessel registration, and will notify the applicant if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D apply.

(10) *Appeals.* In cases where the applicant disagrees with NMFS' decision on a permit application for initial issuance, renewal, replacement, change in ownership, divestiture, or change in vessel registration, the applicant may file an appeal following the procedures described at paragraph (b)(3)(iv) of this section.

(11) *Initial issuance for Tiers 1 through 8.* This section describes the process for initial issuance of limited entry DSBG permits to applicants that qualify under Tiers 1 through 8 as defined at paragraphs (g)(11)(iii)(B)(*1*) through (*8*) of this section.

(i) *Exempted Fishing Permit (EFP) holder.* For purposes of paragraph (g)(11) of this section only, exempted fishing permit (EFP) holder means any individual with NMFS approval to captain a commercial vessel and use DSBG under the authority of a DSBG EFP or any individual who is identified by NMFS as having managed a DSBG EFP, including vessel owners whose vessel fished under the authority of a DSBG EFP.

(ii) *Initial applications.* Persons may apply for a limited entry DSBG permit by completing and submitting an initial issuance application package to NMFS. The completed application package must be submitted on the National Permit System website, or by another method approved by NMFS, no later than 11:59 p.m. on [*date 60 days after final rule publication in the* ***Federal Register***]. If an applicant fails to submit a completed application by the deadline date, they forgo the opportunity to receive a limited entry DSBG permit under Tiers 1 through 8 and their permit will be issued to the next eligible applicant following the procedures at paragraphs (g)(11) and (12) of this section. A complete initial issuance application package consists of the following: a completed initial issuance application form; a completed DSBG Identification of Ownership Interest Form, as required under paragraph (g)(3)(ii) of this section; a current copy of the United States Coast Guard Documentation Form or state registration form for the vessel that will be registered to the permit; and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The initial issuance application package will be considered incomplete until the required information is submitted. NMFS will

decline to act on an incomplete application.

(iii) *Eligibility criteria for Tiers 1–8.* To qualify for a permit under Tiers 1–8, an applicant must meet all of the following criteria:

(A) The applicant is eligible to own a limited entry DSBG permit in accordance with paragraph (g)(2)(i) of this section;

(B) The applicant is in compliance with the ownership requirements and limitations of paragraph (g)(3) of this section. Applicants found to have qualified for more than one permit will be notified by NMFS in writing and will have 30 days to divest of the excess permit ownership interest and resubmit their application package;

(C) The applicant meets the criteria of one of the qualification tiers in paragraphs (g)(11)(iii)(C)(*1*) through (*8*) of this section based on data as of [*date 60 days after final rule publication in the* ***Federal Register***]. Permits will be issued by ranking applicants according to the tiered criteria in those paragraphs, beginning with Tier 1 and ending with Tier 8. NMFS will qualify applicants that meet the criteria of multiple tiers based on their highest tier, with Tier 1 being the highest, Tier 2 the second highest, and so on;

(*1*) Tier 1 consists of EFP holders with at least 10 documented calendar days of DSBG fishing effort by December 31, 2018, based on NMFS West Coast Region Observer Program records indicating either that the EFP holder was the vessel captain for that fishing day or that fishing effort for that day was conducted on a vessel owned by or under the EFP managed by that individual.

(*2*) Tier 2 consists of California Limited Entry Drift Gill Net (DGN) Shark and Swordfish permit holders who made at least one large-mesh DGN swordfish landing between the 2013–2014 and 2017–2018 fishing seasons and surrendered their state or Federal limited entry DGN permit as part of a DGN permit trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipt and buyback records and NMFS and CDFW permit information.

(*3*) Tier 3 consists of EFP holders approved by the Pacific Fishery Management Council prior to April 1, 2021, who conducted at least 10 calendar days of DSBG fishing effort or with 10 days of DSBG effort on their vessel or by vessels they manage under the EFP by [*effective date of final rule*], based on a NMFS West Coast Regional Observer Program record or a properly submitted NMFS DSBG EFP logbook indicating either that the EFP holder was vessel captain for that fishing day or that the fishing effort for that day was conducted on a vessel owned by or under the EFP managed by that individual.

(*4*) Tier 4 consists of California Swordfish permit holders who possessed a permit during the 2018–2019 fishing season and made at least one swordfish landing using harpoon gear between the 2013–2014 or 2017–2018 fishing seasons, based on California Department of Fish and Wildlife (CDFW) permit and marine landing receipt records.

(*5*) Tier 5 consists of California Limited Entry Drift Gill Net (DGN) Shark and Swordfish permit holders who have made at least one large-mesh DGN swordfish landing between the 2013–2014 and 2017–2018 fishing seasons and who did not surrender their state or Federal limited entry DGN permit as part of a trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipts and buyback records and NMFS and CDFW permit information.

(*6*) Tier 6 consists of California Limited Entry Drift Gill Net (DGN) Shark and Swordfish permit holders who have not made a swordfish landing with large-mesh DGN gear since March 31, 2013, and who surrendered their state or Federal limited entry DGN permit as part of a permit trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipts and buyback records and NMFS and CDFW permit information.

(*7*) Tier 7 consists of state or Federal limited entry drift gillnet (DGN) permit holders who have not made a swordfish landing with DGN gear since March 31, 2013, and did not surrender their limited entry DGN permit as part of a state or Federal limited entry DGN permit trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipts and buyback records and NMFS and CDFW permit information.

(*8*) Tier 8 consists of any individual with documented commercial swordfish fishing experience between January 1, 1986, and [*effective date of the final rule*], on a first come, first served basis, based on California Department of Fish and Wildlife (CDFW) permit records showing possession of a valid commercial fishing license on that date and one of the following:

(*i*) A valid CDFW marine landing receipt identifying the individual as the fisherman of record;

(*ii*) A valid state or Federal logbook where swordfish were taken and identifying the individual as captain or crew on that day;

(*iii*) A signed affidavit from a vessel owner or captain identifying the individual as vessel captain or crew on the day that swordfish were taken;

(iv) *Agency determination on an application.* Based on a complete application for an initial permit under Tiers 1–8, if NMFS determines that the applicant has met the requirements of this section, NMFS will issue an initial administrative determination (IAD). If the application is approved, the applicant will receive a permit according to the permit issuance procedures in paragraph (g)(11)(v) of this section. If the application is denied, the IAD will provide an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(v) *Permit issuance.* NMFS will issue permits to approved applicants in priority order according to the qualification tiers in paragraphs (g)(11)(iii)(C)(*1*) through (*8*) of this section, with qualified applicants in Tier 1 receiving permits first, then qualified applicants in Tier 2, and so on. Qualified applicants will be further ranked within a tier based on their total swordfish landings for the time period and gear type specified for that tier for Tiers 1–5, according to California Department of Fish and Wildlife (CDFW) marine landing receipts as of [*date 60 days after final rule publication in* ***Federal Register***], or by the date and time their application is received for Tiers 6–8. NMFS will issue up to 50 permits in 2023, and up to 25 permits each year after, up to a total of 300 valid permits. Permits issued to the next eligible applicant as a result of surrender, revocation, or expiration will not count toward the annual permit issuance limits. Permits will be mailed on or about April 1 for the upcoming May 1 permit year to the address of record. Permit holders are responsible for keeping their contact information current with NMFS to receive their permit. If a permit is returned to NMFS as undeliverable, NMFS will make further attempts to contact the permit holder using the contact information on file. If NMFS is not able to contact the permit holder within 30 days, the permit will be revoked and issued to the next eligible applicant following the procedures at paragraphs (g)(11) and (12) of this section.

(12) *Initial issuance for Tier 9.* When the list of permit qualifiers from the initial issuance for Tiers 1–8 is

exhausted, NMFS will begin accepting applications for additional limited entry DSBG permits on a first come, first served basis. In January of the year NMFS anticipates accepting Tier 9 applications, NMFS will publish a notice in the **Federal Register** to notify the public of the application opportunity. NMFS will accept applications for initial issuance of limited entry DSBG permits under Tier 9 on an annual basis until a total of 300 limited entry DSBG permits are issued.

(i) *Initial applications.* Persons may apply for a limited entry DSBG permit under Tier 9 by completing and submitting an initial issuance application package to NMFS via the National Permit System website during the annual application period February 1–March 31. The completed application package must be submitted no later than 11:59 p.m. Pacific Daylight Time on March 31st of the relevant year. A complete initial issuance application package consists of the following: a completed initial issuance application form; a completed DSBG Identification of Ownership Interest Form, as required under paragraph (g)(3)(ii) of this section; a current copy of the United States Coast Guard Documentation Form or state registration form for the vessel that will be registered to the permit; and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The initial issuance application package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(ii) *Eligibility criteria for Tier 9.* To qualify for a permit under Tier 9, an applicant must meet all of the following criteria:

(A) The applicant is eligible to own a limited entry DSBG permit in accordance with paragraph (g)(2)(i) of this section;

(B) The applicant is in compliance with the ownership requirements and limitations of paragraph (g)(3) of this section;

(iii) *Agency determination on an application.* Based on a complete application, if NMFS determines that the applicant for an initial permit under Tier 9 has met the requirements of this section, NMFS will issue an initial administrative determination (IAD). If the application is approved, the IAD will say so and the applicant will receive a permit according to the permit issuance procedures in paragraph (g)(11)(iv) of this section. If the application is denied, the IAD will provide an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section;

(iv) *Permit issuance.* NMFS will issue permits to approved applicants under Tier 9 on a first come, first served basis, according to the date and time that their application was submitted through the National Permit System. NMFS will issue up to 25 permits each year, up to a total of 300 valid permits. If NMFS approves more than 25 applications in a single year, the approved applicants above 25 will receive priority for permit issuance the following year according to the date and time that their complete applications were received. Permits issued to the next eligible applicant as a result of surrender, revocation, or expiration will not count toward the annual permit issuance limits.

■ 5. In § 660.715, revise the section heading and add paragraphs (a) through (d) to read as follows:

§ 660.715 Deep-set buoy gear fishery.

(a) *Gear configurations.* Deep-set buoy gear (DSBG) configurations must conform to the following specifications:

(1) *Standard buoy gear (SBG).* An individual piece of SBG must consist of a vertical monofilament mainline suspended from a buoy-array with a terminal weight. No more than three gangions with hooks may be attached to the mainline. No gangions with hooks may be attached at a depth shallower than 90 meters.

(2) *Linked buoy gear (LBG).* An individual piece (section) of LBG must consist of a monofilament mainline that extends vertically from a buoy-array (either directly or from a minimum 50-foot extender) to a weight; then horizontally to a second weight; then vertically to a minimum 50-foot extender attached to a second buoy-array. No more than three gangions with hooks may be connected to each horizontal section of the mainline. No gangions with hooks may be attached at a depth shallower than 90 meters. Individual pieces may be linked together by the mainline. The links between each piece of LBG must be serviceable.

(b) *Additional gear configuration specifications.* Use of SBG and LBG must conform with the following requirements:

(1) *Surface buoy flotation and strike detection array requirements.* The surface buoy flotation and strike detection array must include a minimum of three buoys (a minimum 45-pound buoyancy non-compressible hard ball, a minimum 6-pound buoyancy buoy, and a strike detection buoy), with no more than 6 feet of line between adjacent buoys, all connected in-line by a minimum of ⅜ inch diameter line.

(i) Buoys must be free of tether attachments (*e.g.,* non-streamlined gear with loops and/or dangling components).

(ii) SBG and terminal LBG buoy-arrays must include a locator flag, a radar reflector, and vessel/fisher identification compliant with all current state requirements and regulations.

(2) *Weight requirements.* Weights must be a minimum of 3.6 kilograms.

(3) *Circle hook requirements.* Circle hooks must be used that are a minimum size 16/0 with not more than 10 degrees offset.

(4) *Gear pieces and hook limitations.* No more than ten pieces of SBG or LBG, in total, may be deployed at one time, with no more than three hooks per piece.

(c) *Operational requirements.* SBG and LBG must be fished in accordance with the following operational requirements.

(1) *Active tending.* All pieces of gear must remain within 5 nautical miles of the vessel at all times, and the vessel may be no more than 3 nautical miles from the nearest piece of gear.

(2) *Fishing multiple gear types.* Gear types other than DSBG may be used on the same trip when DSBG is used, as long as the requirement to actively tend DSBG (as described at paragraph (c)(1) of this section) is met. If multiple gear types, including gear other than DSBG, are used on the same trip as DSBG, catch must be tagged or marked to identify the gear used, including differentiating whether caught with SBG or LBG.

(3) *Timing of gear deployment and retrieval.* Gear may not be deployed until local sunrise and must be onboard the vessel no later than 3 hours after local sunset.

(4) *Pre-trip notification.* When requested by NMFS, DSBG vessel owners or operators are required to notify NMFS or the NMFS-designated observer provider at least 48 hours prior to departing on each fishing trip during which DSBG will be fished. The vessel owner or operator must communicate to the observer provider: the owner's or operator's name, contact information, vessel name, port of departure, estimated date and time of departure, and a telephone number at which the owner or operator may be contacted during the business day (Monday through Friday between 8 a.m. to 4:30 p.m., Pacific Time) to indicate whether an observer will be required on the subject fishing trip. Contact information

for the current observer provider can be obtained by calling the NMFS West Coast Region Sustainable Fisheries Division at (562) 980–4238.

(5) *Protected species workshops.* When requested by NMFS, the operator of a vessel either registered to a limited entry DSBG permit or planning to fish under a DSBG endorsement must attend a workshop conducted by NMFS on mitigation, handling, and release techniques for protected species.

(d) *Geographic area restrictions.* DSBG fishing is permitted throughout the Management Area defined in 50 CFR 660.703 with the following area restrictions:

(1) *Federal waters offshore of California and Oregon only.* Fishing with DSBG may not occur in Federal waters north of a line extending seaward from the Oregon/Washington border.

(2) *Limited entry-only area.* Except for vessels registered to a valid DSBG limited entry permit, fishing with DSBG may not occur in Federal waters within the Southern California Bight, which for this purpose is defined with a northern boundary of 34°26′54.96″ N latitude (*i.e.,* Point Conception), a southern boundary of the U.S.-Mexico maritime border, and a western boundary of 120°28′18″ W longitude.

(3) *Linked buoy gear area restriction.* Fishing with DSBG in a LBG configuration in waters north of the Northern Channel Islands to a line extending seaward from the Oregon/Washington border may not occur shoreward of a line approximating the 400 meter depth contour, which is defined by straight lines connecting all of the following points in the order stated in the following table.

TABLE 1 TO PARAGRAPH (d)(3)

Latitude	Longitude
45.785378	−124.721611
45.731988	−124.755707
45.676058	−124.662448
45.635778	−124.733532
45.627501	−124.621223
45.421342	−124.428881
45.368012	−124.524815
45.219954	−124.426593
45.192831	−124.640233
45.073777	−124.601143
45.122584	−124.728187
45.012240	−124.512643
44.827950	−124.645508
44.789368	−124.722827
44.703649	−124.815421
44.529842	−124.804136
44.507522	−124.883072
44.415352	−124.858176
44.208665	−124.994868
43.942293	−124.974502
43.795680	−124.685260
43.579894	−124.645446
43.232513	−124.799284
43.226291	−124.883682
42.905163	−124.913752
42.753934	−124.866742
42.748993	−124.751655
42.520896	−124.747080
42.463017	−124.822607
41.824611	−124.517470
41.428980	−124.513482
41.156773	−124.396132
40.801184	−124.492790
40.681958	−124.550870
40.602740	−124.480125
40.622580	−124.645995
40.546989	−124.700835
40.400783	−124.585363
40.370014	−124.431174
40.344876	−124.507828
40.269847	−124.446270
40.279429	−124.657027
40.117493	−124.304705
40.041456	−124.285170
40.042494	−124.155198
39.965786	−124.231615
39.808303	−124.097017
39.540607	−123.943484

TABLE 1 TO PARAGRAPH (d)(3)—Continued

Latitude	Longitude
39.528835	−123.992885
38.911050	−123.982148
38.491136	−123.647679
38.256021	−123.526302
38.228410	−123.438852
38.073446	−123.533062
37.844809	−123.404954
37.623812	−123.050253
37.394689	−122.920853
37.323790	−122.940568
37.189284	−122.863927
36.968232	−122.527184
37.005852	−122.408848
36.945123	−122.425076
36.781748	−122.055455
36.806676	−121.905280
36.680249	−122.025454
36.531101	−121.993385
36.371824	−122.014963
36.315554	−122.101240
36.166525	−121.760807
36.033982	−121.623149
35.584240	−121.366349
35.165706	−121.033163
34.865218	−120.993335
34.929599	−121.074138
34.541665	−120.838291
34.315659	−120.541578
34.268981	−120.379230
46.274388	−124.410349
46.075505	−124.813587
45.968227	−124.739233
34.693224	−120.962686
37.740079	−123.192427
45.169315	−124.502340
45.063305	−124.719824

■ 8. In § 660.716, revise the section heading to read as follows:

§ 660.716 Harpoon and surface hook-and-line fisheries [Reserved]

[FR Doc. 2023–01988 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 88, No. 24

Monday, February 6, 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.

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 March 8, 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: Permit to Transport Undenatured Inedible Meat Products.

OMB Control Number: 0583–0179.

Summary of Collection: FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*). This statute mandates that FSIS protect the public by ensuring that meat products are wholesome, not adulterated, and properly labeled and packaged.

Under the regulations at 9 CFR 325.11(e), official establishments are to apply in writing to their District Office to obtain a permit for the transport of undenatured inedible meat products in commerce.

Need and Use of the Information: Official establishments must complete an application that indicates the name and address of the applicant, a description of the type of business operations, and the purpose of making such application. Official establishments will write letters to their District Office that includes the required information.

Description of Respondents: Business or other for-profit.

Number of Respondents: 150.

Frequency of Responses: Reporting: On occasions.

Total Burden Hours: 87.

Food Safety and Inspection Service

Title: Permit to Obtain Specimens of Condemned or Other Inedible Materials from Official Establishments.

OMB Control Number: 0583–0180.

Summary of Collection: FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, et. seq.) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat, poultry, and egg products are wholesome, not adulterated, and properly labeled and packaged.

Need and Use of the Information: FSIS requires any person desiring specimens of condemned or other inedible materials, including embryos and specimens of animal parasites, to file a written application on the FSIS Form 6700–2, ''Application and Permit to Obtain Specimens from Official Establishments,'' as provided in 9 CFR 314.9(a). The applicant must indicate the purpose for the specimens and arrange with and receive permission from the official establishment to obtain the specimens.

Official establishments may release specimens for educational, research or other nonfood purposes under the permit issued by the inspector in charge. The applicant agrees that the collection and handling of the specimens will be at such time and place and in such a manner as not to interfere with inspection or to cause any objectionable condition.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,642.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 274.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–02433 Filed 2–3–23; 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 March 8, 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: Interstate Shipment of Meat and Poultry Products.

OMB Control Number: 0583–0143.

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.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, and properly labeled and packaged.

Need and Use of the Information: FSIS will collect information to ensure that all establishments operating under the voluntary cooperative inspection program under which State-inspected establishments in participating states with 25 or fewer employees are eligible to ship meat and poultry products in interstate commerce. State-inspected establishments selected to take part in this program are required to comply with all Federal standards under the FMIA and the PPIA, as well as with all State standards. Establishments under the voluntary cooperative inspection program receive inspection services from State inspection personnel that have been trained in the enforcement of the FMIA and PPIA. Without the information, it would reduce the effectiveness of the meat and poultry inspection program that ensures that meat and poultry products are properly marked, labeled and packaged.

Description of Respondents: State, local or tribal government.

Number of Respondents: 67.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 733.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–02367 Filed 2–3–23; 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 required 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 March 8, 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.

Farm Service Agency

Title: Organic Certification Cost Share Program (OCCSP).

OMB Control Number: 0560–0289.

Summary of Collection: Organic Certification Cost Share Program (OCCSP) provides cost share assistance to producers and handlers of agricultural product who are obtaining or renewing their certification under the National Organic Program (NOP). The National Organic Certification Cost-Share Program (NOCCSP) is authorized under section 10606(d)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 note), as amended by section 10004(c) of the Agricultural Act of 2014 (2014 Farm Bill; Pub. L. 113–79).

Need and Use of the Information: The Farm Service Agency (FSA) provides cost-share assistance, through FSA county offices and participating state agencies, to organic producers or handlers who are obtaining or renewing their certification under the National Organic Program. The information collected is needed to ensure that organic producers or handlers and State agencies are eligible for funding and comply with applicable program regulations. Without this collection of information, FSA would not be able to provide cost-share assistance to eligible producer or handler and state agencies.

Description of Respondents: Individuals or Households; State, Local and Tribal Government.

Number of Respondents: 15,659.

Frequency of Responses: Reporting: Semi-annually; Annually.

Total Burden Hours: 78,650.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–02458 Filed 2–3–23; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0011]

Notice of Request for Extension of Approval of an Information Collection; Federally Recognized State Managed Phytosanitary Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with

Federal recognition of a State's plant pest containment, eradication, or exclusion program as a Federally Recognized State Managed Phytosanitary Program.

DATES: We will consider all comments that we receive on or before April 7, 2023.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2023–0011 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0011, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Federally Recognized State Managed Phytosanitary Program, contact Ms. Lydia E. Colon, National Policy Manager for Pest Emergency and Response Program, Emergency and Domestic Programs, APHIS, PPQ, 4700 River Road, Riverdale, MD 20737; (301) 851–2302; *lydia.e.colon@usda.gov.* For information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Federally Recognized State Managed Phytosanitary Program.

OMB Control Number: 0579–0365.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, or interstate movement of plant pests, plants, plant products, or other articles if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

As part of this mission, APHIS' Plant Protection and Quarantine program responds to introductions of plant pests to eradicate, suppress, or contain them through various programs to prevent their interstate spread. APHIS' plant pest containment and eradication programs qualify as ''official control programs,'' as defined by the International Plant Protection Convention (IPPC), recognized by the World Trade Organization as the standard-setting body for international plant quarantine issues. Official control is defined as the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of containment or eradication of quarantine pests or for the management of regulated non-quarantine pests. As a contracting party to the IPPC, the United States has agreed to observe IPPC principles as they relate to international trade.

APHIS is aware that individual States enforce phytosanitary regulations and procedures within their borders to address pests of concern, and that those pests are not always also the subject of an APHIS response program or activity. To strengthen APHIS' safeguarding system to protect agriculture and to facilitate agriculture trade through effective management of phytosanitary measures, APHIS initiated the Federally Recognized State Managed Phytosanitary (FRSMP) Program, which establishes an administrative process for granting Federal recognition to certain State-managed official control programs for plant pest eradication or containment and State-managed pest exclusion programs. (The FRSMP Program was previously referred to as the Official Control Program.) Federal recognition of a State's pest control activities will justify actions by Federal inspectors at ports of entry to help exclude pests that are under a phytosanitary program in a destination State. This process involves the use of information collection activities, including the submission of a petition for protocol for quarantine pests of concern, a petition for regulated non-quarantine pests, State cooperative agreements, and audit review annual accomplishment reports.

We are asking the Office of Management and Budget (OMB) to approve these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 34.7 hours per response.

Respondents: State plant health regulatory officials.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 7.

Estimated annual number of responses: 7.

Estimated total annual burden on respondents: 243 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 1st day of February 2023.

Anthony Shea

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–02444 Filed 2–3–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2022–0034]

National Advisory Committee on Microbiological Criteria for Foods; Membership Nominations

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

ACTION: Notice; soliciting nominations.

SUMMARY: Pursuant to the provisions of the rules and regulations of the USDA and the Federal Advisory Committee

Act (FACA), the USDA is soliciting nominations for membership on the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). There are 15 vacancies. Advisory Committee members serve a two-year term that will begin September 2023 through September 2025. Members may be reappointed for one additional consecutive term at the discretion of the Secretary of Agriculture.

DATES: All nomination packages must be received by March 15, 2023.

ADDRESSES: Nomination packages should be sent by email to *NACMCF@usda.gov,* or mailed to: The Honorable Thomas Vilsack, Secretary, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 1131, South Building, Attn: FSIS\OPHS\National Advisory Committee on Microbiological Criteria for Foods (John Jarosh), Washington, DC 20250.

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

FOR FURTHER INFORMATION CONTACT: John Jarosh, Designated Federal Officer, by telephone at 510–671–4397, by email to *NACMCF@usda.gov* or by mail to: John Jarosh, USDA, FSIS, Office of Public Health Science, 1400 Independence Avenue SW, Room 1131, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: USDA is seeking NACMCF nominees with scientific expertise in the fields of microbiology, risk assessment, epidemiology, public health, food science, and other relevant disciplines, in order to obtain the scientific perspective, expertise, experience and point-of-view of all stakeholders. USDA is seeking nominations for NACMCF from persons in academia, industry, and State governments, as well as all other interested persons with the required expertise. Members can serve on only one USDA Advisory Committee at a time.

All nominees will undergo a USDA background check. Any member who is not a Federal government employee will be appointed to serve as a non-compensated special government employee (SGE). SGEs will be subject to appropriate conflict of interest statutes and standards of ethical conduct. Applicants that are federally registered lobbyists will not be considered for USDA's NACMCF.

Nominations for membership on the NACMCF must be addressed to the Secretary of Agriculture and accompanied by a cover letter addressing the nomination. Additionally, a resume or curriculum vitae and a completed USDA Advisory Committee Membership Background Information form AD–755 (available online at: *https://www.usda.gov/sites/default/files/documents/ad-755.pdf*) must be included with the nomination. The resume or curriculum vitae must be limited to five one-sided pages and should include educational background, expertise, and a list of select publications, if available, that confirm the nominee's expertise for the related work. Any submissions with more than the prescribed five one-sided pages in length will have only the first five pages reviewed. A person may self-nominate, or a nomination can be made on behalf of someone else.

Background

The NACMCF provides impartial scientific advice, and peer reviews to Federal food safety agencies for use in the development of an integrated national food safety systems approach that assures the safety of domestic, imported, and exported foods.

The NACMCF is a discretionary advisory committee that was established in 1988, by the Secretary of Agriculture, and after consulting with the Secretary of the U.S. Department of Health and Human Services, in response to the recommendations of two external organizations. The National Academy of Sciences recommended an interagency approach to microbiological criteria, since various federal, State, and local agencies are responsible for food safety. Also, the U.S. House of Representatives Committee on Appropriations made a similar recommendation in the Rural Development, Agriculture, and Related Agencies Appropriation Bill for fiscal year 1988. The charter for the NACMCF is available for viewing at *https://www.fsis.usda.gov/policy/advisory-committees/national-advisory-committee-microbiological-criteria-foods-nacmcf.* The NACMCF provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services on public health issues relative to the safety and wholesomeness of the U.S. food supply, including development of microbiological criteria and review and evaluation of epidemiological and risk assessment data and methodologies for assessing microbiological hazards in foods. The Committee also provides scientific advice and recommendations to the U.S. Departments of Commerce and Defense. For example, one of the most recent efforts of the Committee was to provide the best scientific information available on 'Enhancing *Salmonella* Control in Poultry.' The Committee is currently addressing '*Cronobacter* spp. In Powdered Infant Formula' and anticipates an FSIS charge related to the benefits of genomic characterization of pathogens.

The Committee reports to the Secretary of Agriculture through the Under Secretary for Food Safety, the Committee's Chair, and to the Secretary of Health and Human Services through the Assistant Secretary for Health, the Committee's Vice-Chair. Currently, Dr. José Emilio Esteban, Under Secretary for Food Safety, USDA, is the Committee Chair; Dr. Susan T. Mayne, Director of the Food and Drug Administration's Center for Food Safety and Applied Nutrition (CFSAN), is the Vice-Chair; and Mr. John J. Jarosh, FSIS, is the Director of the NACMCF Secretariat and Designated Federal Officer.

Appointments to the Committee will be made by the Secretary of Agriculture after consultation with the Secretary of Health and Human Services to ensure that recommendations made by the Committee take into account the needs of the diverse groups served by the USDA.

The full Committee expects to meet at least once a year, virtually or in person, and the meetings will be announced in advance in the **Federal Register**. NACMCF holds subcommittee meetings in order to accomplish the work of the Committee; all subcommittee work is reviewed and approved during a public meeting of the full Committee, as announced in the **Federal Register**. The subcommittees will meet as deemed necessary by the subcommittee chairperson in an open public forum. Subcommittees may also meet virtually. The subcommittee meetings will not be announced in the **Federal Register**; however, FSIS will announce the agenda and subcommittee meetings through the FSIS *Constituent Update,* available online at: *http://www.fsis.usda.gov/cu.* Subcommittees may invite technical experts to present information for consideration by the subcommittee. All data and records available to the full Committee are expected to be available to the public after the full Committee has reviewed and approved the work of the subcommittee.

Advisory committee members are expected to attend all scheduled meetings during their two-year term to ensure the smooth functioning of the advisory committee. Members must be prepared to work outside of scheduled Committee and subcommittee meetings and may be required to assist in document preparation. Committee members serve on a voluntary basis;

however, travel expenses and per diem reimbursements are available when in person meetings occur.

Regarding Nominees Who Are Selected

All SGE and Federal government employee nominees who are selected must complete the Office of Government Ethics (OGE) 450 Confidential Financial Disclosure Report before rendering any advice or before their first meeting. All Committee members will be reviewed pursuant to 18 U.S.C. 208 for conflicts of interest relating to specific NACMCF work charges, and financial disclosure updates will be required annually. Members subject to financial disclosure must report any changes in financial holdings requiring additional disclosure. OGE 450 forms are available on-line at: *https://www.oge.gov/web/oge.nsf/ethicsofficials_financial-disc.*

Documents and Comments

NACMCF documents and comments posted on the FSIS website are electronic conversions from a variety of source formats. In some cases, document conversion may result in character translation or formatting errors. The original document is the official, legal copy. To meet the electronic and information technology accessibility standards in section 508 of the Rehabilitation Act, NACMCF may add alternate text descriptors for non-text elements (graphs, charts, tables, multimedia, etc.). These modifications only affect the internet copies of the documents. Copyrighted documents will not be posted on FSIS' website but will be available for inspection in the FSIS Docket Room.

Additional Public Notification

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

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

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

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

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

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

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Dated: February 1, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–02395 Filed 2–3–23; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Arizona Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southern Arizona Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Coronado National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/coronado/workingtogether/advisory committees.*

DATES: The meeting will be held on March 17, 2023, 10 a.m.–12 p.m. Mountain Standard Time. All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Kerwin Dewberry, Designated Federal Officer (DFO), by phone at 520–388–8300 email at *Kerwin.Dewberry@usda.gov* or Dana Backer, RAC Coordinator at 520–388–8424 or email at *Dana.Backer@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Decide the appropriate use of fiscal year 2021 funds.
2. Select a date for a field trip.
3. Re-evaluate request to review and provide recommendation for recreation fee increase at two locations on Coronado National Forest.
4. Approve meeting minutes from September 29, 2022 (administrative meeting).

The meeting is open to the public. The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Dana Backer, 300 W Congress St., Tucson, AZ 85701; or by email to *Dana.Backer@usda.gov.* 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.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: February 1, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–02401 Filed 2–3–23; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Washington Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meetings.

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 Washington Advisory Committee (Committee) will hold various virtual business meetings via ZoomGov platform on the dates and times listed below. The purpose of these meetings is for the Committee to plan for upcoming panels on physical accessiability in Washington.

DATES: These meetings will take place on:

- Wednesday, February 15, 2023, from 1:30 p.m.–2:30 p.m. PT
- Wednesday, March 15, 2023, from 2:30 p.m.–3:30 p.m. PT
- Monday, April 3, 2023, from 2 p.m.–3 p.m. PT

February 15th Registration Link: *https://www.zoomgov.com/meeting/register/vJItd-msqjMrHGe-TqFQ8sP7IEDGaa2t4HU.*

March 15th Registration Link: *https://www.zoomgov.com/meeting/register/vJIscuquqT8sHTEyBLPiMF4ocS0gYhVY8yg.*

April 3rd Registration Link: *https://www.zoomgov.com/meeting/register/vJItfu-tpj8qHYn66jqvp1bsd3HXhSqfse8.*

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the public WebEx registration link listed above. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. 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. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery at *bpeery@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office/Advisory Committee Management Unit at (202) 701–1376.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkZAAQ.*

Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or you may contact the Regional Programs Unit office at the above email address.

Agenda

I. Welcome & Roll Call

II. Approval of Minutes

III. Committee Discussion

IV. Public Comment

V. Adjournment

Dated: January 31, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–02368 Filed 2–3–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Automated Export System (AES)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 21, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Automated Export System (AES).

OMB Control Number: 0607–0152.

Form Number(s): Automated Export System (AES).

Type of Request: Regular submission, Request for Extension without change of a currently approved collection.

Number of Respondents: 17,025,219.

Average Hours per Response: 3 minutes per AES transaction.

Burden Hours: 851,261.

Needs and Uses: The Census Bureau requires mandatory filing of all export information via the Automated Export System (AES). This requirement is mandated through Public Law 107–228 of the Foreign Trade Relations Act of 2003. This law authorizes the Secretary of Commerce with the concurrences of the Secretary of State and the Secretary of Homeland Security to require all persons who file export information according to Title 13, United States Code (U.S.C.), Chapter 9, to file such information through the AES. With this submission, the Census Bureau is requesting continued clearance of the AES program.

The AES is the primary instrument used for collecting export trade data, which are used by the Census Bureau for statistical purposes. The AES provides the means for collecting data on U.S. exports. Title 13, U.S.C., Chapter 9, Sections 301–307, mandates the collection of these data. The regulatory provisions for the collection of these data are contained in the Foreign Trade Regulations (FTR), Title 15, Code of Federal Regulations (CFR), Part 30. The official export statistics collected from these tools provide the basic component for the compilation of the U.S. position on merchandise trade. These data are an essential component of the monthly totals provided in the U.S. International Trade in Goods and Services (FT–900) Press Release, a principal federal economic indicator, and a primary component of the Gross Domestic Product. The published export data enable the private and public sector to develop practical marketing strategies as well as provide a means to assess the impact of exports on the domestic economy. These data are used in the development of U.S. government economic and foreign trade policies, including export control purposes under the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852. The Bureau of Industry and Security (BIS), U.S. Customs and Border Protection (CBP), and other enforcement agencies use these data to detect and prevent the export of certain items by unauthorized parties to unauthorized destinations or end users.

In order to publish accurate export trade statistics, the Census Bureau is responsible for maintaining the FTR, which implements the provisions for filing export information in the AES. In addition to the publication of the FT–900, the Census Bureau releases data on imports of steel mill products in advance of the regular monthly trade statistics release. This exception to the normal procedure was initially approved by the OMB in January 1999 and had been subsequently extended annually through means of a separately submitted memo. This exception has permitted the public release of preliminary monthly data on imports of steel under the provisions of the OMB's Statistical Policy Directive No. 3 on the Compilation, Release and Evaluation of Principal Federal Economic Indicators. With the revision to the AES Program in 2019, the Census Bureau eliminated the need for an annual approval from OMB since it is included in the Information Collection Request (ICR).

The Census Bureau has proposed a rule that could lead to a change in the FTR and the AES since the last OMB clearance. Specifically, the Census Bureau issued a Notice of Proposed Rulemaking (NPRM) in 2021 to propose the addition of a conditional data element, country of origin in the AES, and to make remedial changes to the FTR to improve clarity of the AES reporting requirements while correcting any errors. The proposed rule would require AES filers (the U.S. Principal Party in Interest (USPPI) or the authorized agent) to report the country of origin only when foreign origin goods are exported. In calendar year 2021, 12.5 million AES records (27.5 percent) consisted of foreign origin commodities. At this time the Census Bureau is still reviewing the comments received and is having internal discussions. At the conclusion of the review, the Census Bureau will weigh the statistical need of the data to the overall impact this change will have on businesses in the export trade community in order to make a final decision on whether to add the new field. If it is determined that the Census Bureau will move forward with the addition of the country of origin, then a revision to the ICR will be made and an opportunity for comments will be provided. It is critical for the Census Bureau to ensure that any revisions made to the FTR will allow for the continued collection and compilation of complete, accurate and timely trade statistics.

The information collected via the AES conveys what is being exported (description and commodity classification number); how much is exported (quantity, shipping weight, and value); how it is exported (method of transport, exporting carrier, and whether containerized); who the parties to the transaction are (USPPI, authorized agent, and intermediate and ultimate consignees); from where (state of origin and port of export); to where (port of unloading and country of ultimate destination); and when a commodity is exported (date of exportation). Profile information on the USPPI and the authorized agent provides a contact for verification of the information.

The data collected from the AES serves as the official record of export transactions and is used by the U.S. Federal Government and the private sector. The Federal Government uses every data element in the AES. The mandatory filing requirement of the export information in AES enables the Federal Government to produce more complete, accurate and timely export statistics. The Census Bureau delegated the authority to enforce the FTR to the BIS's Office of Export Enforcement along with the Department of Homeland Security's CBP and Homeland Security Investigations (HSI). The mandatory use of the AES also facilitates the enforcement by the BIS of the Export Administration Regulations for the detection and prevention of exports of national security sensitive commodities to unauthorized destinations; the

enforcement by the CBP of the U.S. Department of State's International Traffic in Arms Regulations for the exports of defense articles; the validation by the Census Bureau of the Kimberly Process Certificate for the exports of rough diamonds; and enforcement and compliance by other federal agencies (*i.e.,* Environmental Protection Agency, Drug Enforcement Agency, etc.) of regulations pertaining to export requirements.

Other Federal agencies use these data to develop the components of the merchandise trade figures used in the calculations for the balance of payments and Gross Domestic Product accounts to evaluate the effects of the value of U.S. exports; and to prepare for and assist in trade negotiations under the General Agreement on Tariffs and Trade. Collection of these data also eliminates the need for conducting additional surveys for the collection of information because the AES shows the relationship of the parties to the export transaction (as required by the Bureau of Economic Analysis (BEA). The Bureau of Labor Statistics also uses the AES data as a source for developing the export price index and by the U.S. Department of Transportation for administering the negotiation of reciprocal arrangements for transportation facilities between the U.S. and other countries. Additionally, a collaborative effort amongst the Census Bureau, the National Governors' Association and other data users resulted in the development of export statistics requiring the state of origin to be reported on the AES. This information enables state governments to focus activities and resources on fostering the exports of goods that originate in their states.

The International Trade Administration relies heavily on the preliminary import statistics of steel mill products provided by the Census Bureau. As a part of the Government's steel initiative, the Department of Commerce was instructed by the Administration to monitor steel imports. The early release of preliminary statistics on steel mill imports allows the steel industry to identify trends and potential shifts in trade patterns and take appropriate action. A variety of parties, including government officials and the public with an interest in imports of steel products continue to use this monitoring system heavily. The FTR, Subpart F addresses the general requirements for filing import entries with CBP in the ACE in accordance with 19 CFR, which is the source of the import data on steel mill products.

Export statistics collected from the AES aid private sector companies, financial institutions, and transportation entities in conducting market analysis and market penetration studies for the development of new markets and market-share strategies. Port authorities, steamship lines, airlines, aircraft manufacturers, and air transport associations use these data for measuring the volume and effect of air or vessel shipments and the need for additional or new types of facilities.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Chapter 9, Section 301.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0152.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–02471 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Census Household Panel

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed new information collection of the Census Household Panel prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before April 7, 2023.

ADDRESSES: Interested persons are invited to submit written comments by email to *adrm.pra@census.gov.* Please reference Census Household Panel in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2022–0026, to the Federal e-Rulemaking Portal: *https://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *https://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Cassandra Logan, Survey Director, 301–763–1087 and *cassandra.logan@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Early research and development work has demonstrated the value of a high-quality panel to improve representativeness and significantly reduce burden on households in the interests of collecting high-frequency data. This notice outlines plans for the development of the Census Household Panel consisting of a pool of households carefully selected and recruited by the Census Bureau to reflect the diversity of our Nation's population. Panel participants will opt in to respond to different survey requests—or importantly, to participate in the same survey over time to produce longitudinal data that measure change over time. Development of this Panel at the Census Bureau allows the agency to draw representative samples accurately and quickly, responding to the need for timely insights on an array of topics and improving data outputs inclusive of historically undercounted populations.

The initial goal for the size of the Panel is 15,000 panelists and households selected for the Panel will come from the Census Bureau's gold standard Master Address File. This ensures the Panel is rooted in this rigorously developed and maintained frame and available for linkage to administrative records securely maintained and curated by the Census Bureau. Initial invitations to enroll in the Panel will be sent by mail and questionnaires will be mainly internet self-response. The Panel will maintain representativeness by allowing respondents who do not use the internet to respond via in-bound computer-assisted telephone interviewing (CATI). All panelists will receive an incentive for each complete questionnaire. Periodic replenishment samples will maintain representativeness and panelists will be replaced after a period of three years.

This Panel will become integral to rapidly providing insight on national events that may impact social, economic, or demographic characteristics of the population. Traditionally, Federal surveys are designed to collect and disseminate data on a slower timetable to produce statistically robust key measures of the society and economy. In keeping with growing needs for more timely information, however, the Census Bureau seeks to complement these important, established surveys with new mechanisms such as the Census Household Panel which can produce data much closer to real time as the events develop. The Panel will also help us research questions related to surveys. For example, this Panel will allow us to conduct nationally representative field tests to test content changes in an efficient and reliable fashion in support of other surveys. We also will look at alternative methods for enhancing data with administrative and other external data sources and developed modeled data. The Panel will provide a critical platform for developing adaptive design procedures that use auxiliary data sources. Adaptive design has proven to reduce costs, improve data quality, and maintain and improve representativeness in the data we collect and use.

Leveraging its experience reaching and engaging households, and its reputation for statistical rigor and transparency in the production of Federal statistics, the Census Bureau will build the Census Household Panel in-house in a manner that affords users a full understanding of the methodology in keeping with Federal statistical standards, including response rates and weighting. This transparency into the way in which the statistics are developed will provide Federal agencies the confidence necessary to use the data in their policy making.

II. Method of Collection

The Census Bureau will conduct this information collection online using Qualtrics as the data collection platform. Qualtrics currently is used at the Census Bureau for research and development surveys and provides the necessary agility to deploy the Census Household Panel quickly and securely. It operates in the Gov Cloud, is FedRAMP authorized at the moderate level, and has an Authority to Operate from the Census Bureau to collect personally identifiable and Title-protected data. Panelists will be able to respond online and by inbound CATI (computer-assisted telephone interviewing). Inbound CATI will be used for respondents who do not want to or cannot complete questionnaires online. Outbound CATI nonresponse follow-up will also be conducted. Panel recruitment will consist of mail contacts and telephone follow-up, with the possibility of personal visit.

The sample will be drawn from the Census Bureau's Master Address File. The sampling plan will be provided in the Supporting Statements. Participants will be enrolled via a screener and a baseline questionnaire. Following enrollment, participants will be invited to complete monthly topical surveys. Incentives will be provided to respondents and the strategy for incentives will be outlined in the Supporting Statements.

III. Data

OMB Control Number: 0607–XXXX.

Form Number(s): Not yet determined.

Type of Review: Regular submission, New Information Collection Request.

Affected Public: Individuals or households.

Estimated Number of Respondents: 15,000.

Estimated Time per Response: 5 minutes for screening each of 75,000 initial sample (6,250 hours) and 20 minutes per response monthly per respondent for a maximum of 4 hours per respondent per year (60,000 hours).

Estimated Total Annual Burden Hours: 66,250 per year.

Estimated Total Annual Cost to Public: $0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Data collection from the Panel for Census Bureau sponsored surveys is authorized by Title 13, Sections, 131, 141, 161, 181, 182, 193, and 301. Data collection from the Panel for surveys sponsored by other agencies is authorized by 13 U.S.C. 8(b), where the Census Bureau is the collection agent, and the various U.S. Code titles that authorize those agencies to collect information. The confidentiality of information collected on topical surveys in this Panel is assured by Title 13, United States Code.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–02470 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Census Military Panel

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed new information collection of the Military Panel prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before April 7, 2023.

ADDRESSES: Interested persons are invited to submit written comments by email to *adrm.pra@census.gov.* Please reference Military Panel in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2023–0001, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Cassandra Logan, Survey Director, 301–763–1087, *cassandra.logan@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Early research and development work has demonstrated the value of a high-quality panel to improve representativeness and significantly reduce burden on respondents in the interest of collecting high-frequency data. The Military Panel is a national survey panel by the U.S. Census Bureau (Census) and the U.S. Department of Defense (DOD). Data collected from service members and their spouses on a variety of topics through the Panel will be used to improve military life and policies affecting active-service members and their families. The panel will consist of active-duty service members and spouses of active-duty service members that have agreed to be contacted and invited to participate. The goal for the overall panel project is to recruit at least 2,000 panel members (1,000 service members and 1,000 spouses), with data collection taking place once every two months, through fiscal year 2025.

II. Method of Collection

A sample of 2,000 active-duty military members (1,000) and active duty military spouses (1,000) will be recruited from a frame provided by the Department of Defense. Potential panelists will be mailed invitations and asked to participate in an online or inbound telephone screener. If the respondent qualifies, they will be invited to join the panel by completing the baseline questionnaire in the same mode (online or inbound telephone). Households who do not respond to the mailed invitation will be in sample for telephone nonresponse follow up. In these cases, an interviewer would administer the screener and the baseline questionnaire. Once they join the panel, panelists will be eligible for online topical surveys every other month for up to 3 years.

The Census Bureau will conduct this information collection online using Qualtrics as the data collection platform. Qualtrics currently is used at the Census Bureau for research and development surveys and provides the necessary agility to deploy the Household Pulse Survey quickly and securely. It operates in the Gov Cloud, which is FedRAMP authorized at the moderate level, and has an Authority to Operate from the Census Bureau to collect personally identifiable and Title-protected data.

Responses will be collected using Qualtrics and panelists will be able to respond online. Panel recruitment will consist of mail, SMS and email contacts.

III. Data

OMB Control Number: 0607–XXXX.
Form Number(s): Not yet determined.
Type of Review: Regular submission, new information collection request.
Affected Public: Individuals or households.

Screening Operation

Estimated Number of Respondents: 15,625.
Estimated Time per Response: 10 minutes per respondent.
Estimated Annual Screening Burden Hours: 2,604 per year.

Data Collection

Estimated Number of Respondents: 2,000.
Estimated Time per Response: 20 minutes per response bi-monthly per respondent for a maximum of 2 hours per respondent per year.
Estimated Annual Data Collection Burden Hours: 4,000 per year.
Estimated Total Annual Burden Hours: 6,604 per year.
Estimated Total Annual Cost to Public: $0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)
Respondent's Obligation: Voluntary.
Legal Authority: The Census Bureau, on behalf of the Department of Defense, is conducting this study under the authority of 10 U.S.C. 1782. Privacy is protected by the Privacy Act of 1974 (5 U.S.C. 552a).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone

number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–02475 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Regional Economic Development Data Collection Instrument

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 16, 2022 (87 FR 68674) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Economic Development Administration (EDA), Commerce.

Title: Regional Economic Development Data Collection Instrument.

OMB Control Number: New information collection.

Form Number(s): None.

Type of Request: Regular submission; new information collection.

Estimated Number of Respondents and Frequency: A total of 21 coalitions (with a designated lead) will respond on a quarterly basis. As the Build Back Better Regional Challenge is a new grant program, EDA anticipates that these estimates will be further refined based on data generated during the period of performance of Build Back Better Regional Challenge grants.

Estimated Average Hours per Response: 2.5 hours per respondent/per quarter.

Estimated Burden Hours: 210.

Needs and Uses: To effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance. The purpose of this notice is to seek comments from the public and other Federal agencies on a request for a new information collection for recipients of awards under the EDA American Rescue Plan Act (ARPA) Build Back Better Regional Challenge.

The proposed information collection will employ an innovative mixed methods approach to gather traditional metrics in addition to qualitative data on all regions participating in the Build Back Better Regional Challenge program. Secondary data will be gathered and monitored for each of the regions/awardees. A quarterly questionnaire will be sent to each of the BBBRC coalition leads which will gather the relevant data and stories for each of the 21 BBBRC coalitions, resulting in coalition regional impact evaluation, resources, and tools for regional economic development decision-makers.

The collection will explore several thematic areas for the Build Back Better Regional Challenge, where each of the following areas are based on survey scope of work themes:

1. Accelerating innovation in emerging technologies to gain an understanding of the long-term impact of economic and social sectors;
2. Helping workers access information on new job opportunities, job placement, and job training and prepare for and be hired into good jobs;
3. Increasing new business growth and entrepreneurial activities within industry sectors;
4. Building critical infrastructure such as roads, water and sewer miles, business and industries to allow for economic development and growth; and
5. Helping businesses adopt new technologies so that they may enter new markets, increasing their economic capacity and overall sustainability.

With each of these categories of questions, organized by thematic area and noted above, there will be an equity-based questions to support greater understanding of how equity is being implemented throughout regional economic development projects.

Coalition leads will respond to the appropriate thematic area, answering questions related to the following process and progress;

- Reflections and updates on the coalition implementation process and progress;
- The ability to secure additional non-federal investments;
- Detailing the programs, training, and curricula developed/launched for job training/workforce development; and
- Job creation, wage growth, and existing employee growth and development.

The collection instrument also includes questions related to the overall programmatic experience such as Community of Practice support.

Affected Public: Recipients of Build Back Better Regional Challenge awards, which may include a(n): District Organization; Indian Tribe or a consortium of Indian Tribes; State, county, city, or other political subdivision of a State, including a special purpose unit of a state or local government engaged in economic or infrastructure development activities or a consortium of political subdivisions; Institution of Higher Education or a consortium of institutions of higher education; or Public or private non-profit organization or association, including labor unions, acting in cooperation with officials of a political subdivision of a State.

Respondent's Obligation: Mandatory

Legal Authority: The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 *et seq*).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–02387 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–47–2022]

Foreign-Trade Zone (FTZ) 72—Indianapolis, Indiana; Authorization of Production Activity; Mercury Marine (Marine Service, Repair, Winterization, or Replacement Kits) Brownsburg, Indiana

On October 4, 2022, Mercury Marine submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 72, in Brownsburg, Indiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 62787, October 17, 2022). On February 1, 2023, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: February 1, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–02437 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Obaidullah Syed, 12 Cottonwood Road, Northbrook, IL 60659; Order Denying Export Privileges

On May 17, 2022, in the U.S. District Court for the Northern District of Illinois, Obaidullah Syed (''Syed'') was convicted of violating 18 U.S.C. 371. Specifically, Syed was convicted of conspiring to export computers, computer systems, and associated equipment from the United States to the Pakistan Atomic Energy Commission without a license from U.S. Department of Commerce, in violation of 18 U.S.C. 371. As a result of his conviction, the Court sentenced Syed to one year and one day in prison, one year and one day of supervised release, an assessment of $100 and forfeiture in the amount of $247,000.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Syed's conviction for violating 18 U.S.C. 371. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Syed to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Syed.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Syed's export privileges under the Regulations for a period of 10 years from the date of Syed's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Syed had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until May 17, 2032, Obaidullah Syed, with a last known address of 12 Cottonwood Road, Northbrook, IL 60669, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Syed by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Syed may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Syed and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until May 17, 2032.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–02397 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–840]

Forged Steel Fluid End Blocks From Italy: Preliminary Results and Rescission of Antidumping Duty Administrative Review in Part; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Lucchini Mame Forge S.p.A. (Lucchini), a producer/exporter subject to this administrative review, made sales of forged steel fluid end blocks (fluid end blocks) at less than normal value. The period of review (POR) is July 23, 2020, through December 31, 2021. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 6, 2023.

FOR FURTHER INFORMATION CONTACT: Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2201.

SUPPLEMENTARY INFORMATION:

Background

On January 29, 2021, Commerce published the antidumping duty order on fluid end blocks from Italy.[1] On March 9, 2022, Commerce published the notice of initiation of the administrative review of the antidumping duty order on fluid end blocks from Italy.[2] Commerce selected Lucchini for individual examination.[3] On September 16, 2022, Commerce extended the time limit for these preliminary results to January 31, 2023, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).[4] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5]

Scope of the Order

The merchandise subject to the *Order* are fluid end blocks from Italy, whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. On May 6, 2022, the FEB Fair Trade Coalition, Ellwood Group (comprised of Ellwood City Forge Company, Ellwood Quality Steels Company, and Ellwood National Steel Company), and A. Finkl & Sons (collectively, the petitioners), withdrew their requests for review with respect to Metalcam S.p.A, IMER International S.p.A, Galperti Group, Mimest S.p.A, and P. Technologies S.r.L.[6] Because the requests for review were timely withdrawn and no other parties requested a review of these companies, in accordance with 19 CFR 351.213(d)(1), Commerce is partially rescinding this review of the *Order* for these five companies.

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margin exists for the period July 23, 2020, through December 31, 2021:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Lucchini Mame Forge S.p.A	2.21

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review, pursuant to 19 CFR 351.212(b). For the companies for which we have rescinded this review, we intend to instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP for the rescinded companies no earlier than 35 days after the date of publication of the preliminary results of this administrative review in the **Federal Register**.

If the weighted-average dumping margin for Lucchini is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we intend to calculate an importer-specific

[1] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany and Italy: Amended Final Antidumping Duty Determination for the Federal Republic of Germany and Antidumping Duty Orders,* 86 FR 7528 (January 29, 2021) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 13252 (March 9, 2022).

[3] *See* Memorandum, ''Forged Steel Fluid End Blocks from Italy 2020–2021: Respondent Selection,'' dated March 23, 2022.

[4] *See* Memorandum, ''Forged Steel Fluid End Blocks from Italy: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,'' dated September 16, 2022.

[5] *See* Memorandum, ''Forged Steel Fluid End Blocks from Italy: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* Petitioners' Letter, ''Forged Steel Fluid End Blocks from Italy: Petitioners' Withdrawal of Request for 2020/2021 Administrative Review for Certain Entities,'' dated May 6, 2022.

assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[7] If Lucchini's weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific assessment rate is zero or *de minimis,* Commerce intends to instruct CBP to liquidate appropriate entries without regard to antidumping duties.[8] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[9]

For entries of subject merchandise during the POR produced by Lucchini for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[10]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific cash deposit rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, or the less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 7.33 percent, the all-others rate established in the LTFV investigation.[11] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[12] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[13] Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[14]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[15]

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and section 19 CFR 351.221(b)(4).

Dated: January 30, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2023–02386 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[8] *Id.,* 77 FR at 8102–03; *see also* 19 CFR 351.106(c)(2).

[9] *See* section 751(a)(2)(C) of the Act.

[10] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[11] *See Order,* 86 FR at 7530.

[12] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'').

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[14] *See* 19 CFR 351.309(c)(2) and (d)(2); *see also* 19 CFR 351.303 (for general filing requirements).

[15] *See* 19 CFR 351.310(c); *see also* 19 CFR 351.303 (for general filing requirements).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–928]

Uncovered Innerspring Units From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) continues to determine that Bomei Tex Ltd. (Bomei) and Saffron Living Co., Ltd. (Saffron Living), the two companies subject to this administrative review of the antidumping duty (AD) order on uncovered innerspring units (innersprings) from the People's Republic of China (China), are part of the China-wide entity. The period of review (POR) is February 1, 2021, through January 31, 2022.

DATES: Applicable February 6, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0413.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the preliminary results of this administrative review on October 25, 2022.[1] We invited interested parties to comment on the *Preliminary Results*. No party submitted comments. Accordingly, the final results are unchanged from the *Preliminary Results*. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [2]

The merchandise subject to the *Order* is uncovered innerspring units. For a full description of the scope of the *Order, see Preliminary Results*.[3]

Final Results of Administrative Review

We received no comments on, and made no changes to, the *Preliminary Results*. We continue to find that neither Bomei nor Saffron Living filed a no-shipment certification, a separate rate application, or a separate rate certification. Thus, Commerce continues to determine that these companies have not demonstrated their eligibility for separate rate status and, therefore, we determine that these companies are part of the China-wide entity.

Because no party requested a review of the China-wide entity, and we did not self-initiate a review, the China-wide entity rate (*i.e.,* 234.51 percent) is not subject to change as a result of this review.[4]

Assessment Rates

Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review in accordance with section 751(a)(2)(C) of the Act. For Bomei and Saffron Living, we will instruct CBP to apply the China-wide rate of 234.51 percent to all entries of subject merchandise during the POR. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate (including Bomei and Saffron Living), the cash deposit rate will be the China-wide rate of 234.51 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: January 30, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–02385 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Uncovered Innerspring Units from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,* 87 FR 64435 (October 25, 2022) (*Preliminary Results*).

[2] *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 7661 (February 19, 2009) (*Order*).

[3] *See Preliminary Results,* 87 FR at 64435–36.

[4] *See Order,* 74 FR at 7662.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC721]

Marine Mammals; File No. 27102

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Institute for Marine Sciences, 115 McAllister Way, Ocean Health Building,

Santa Cruz, CA 95060 (Responsible Party: Logan Pallin, Ph.D.) has applied in due form for a permit to conduct scientific research on marine mammal parts.

DATES: Written, telefaxed, or email comments must be received on or before March 8, 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. 27102 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. 27102 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: Jennifer Skidmore or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to collect (only in Antarctica), receive, import, and export parts from up to 2,000 individual cetaceans and 2,000 individual pinnipeds (except walrus), annually. Sources of foreign and domestic parts may include subsistence harvests, captive animals, other authorized researchers or curated collections, bycatch from legal commercial fishing operations, and foreign stranded animals. Parts would be used to monitor population demographic of marine mammals through the study of genetic diversity, population structure and demography, abundance, individual movement, and health. The permit would be valid for five years from the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 1, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–02403 Filed 2–3–23; 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; West Coast Fisheries Participation Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on September 2, 2022 (87 FR 19080) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: West Coast Fisheries Participation Survey.

OMB Control Number: 0648–0749.

Form Number(s): None.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 2,725.

Average Hours per Response: 15 minutes.

Total Annual Burden Hours: 227.

Needs and Uses: This is a request for a revision and extension of a currently approved information collection, approved under the authority and goals of the Magnuson-Stevens Fishery Conservation and Management Act.

Fishing livelihoods are both centrally dependent on marine ecosystems and part of the set of forces acting on other components of these ecosystems, including the ecosystem's resident fish and marine species. Alongside social factors like economics and management actions, biophysical dynamics within the ecosystems, including fisheries population fluctuations, shape fishing livelihoods. However, the decisions fishermen make regarding which fisheries to access and when to access them are not fully understood, particularly within the holistic food web frameworks offered up by ecosystem-based approaches to research and management. Moreover, a full understanding and predictive capacity for these movements of fishermen across fisheries in the context of ecological and social variability presents a significant gap in management-oriented knowledge. Managing fisheries in a way that enhances their social and economic value, mitigates risks to ecosystems and livelihoods, and facilitates sustainable adaptation, requires this fundamental knowledge.

For this reason, the Northwest Fisheries Science Center (NWFSC) seeks to conduct fisheries participation analyses which involve repeated follow-up surveys of United States (U.S.) West Coast commercial fishing participants. A U.S. mail survey will be conducted, replicating the survey administered during 2017 and 2020, with slight changes in questions about direct marketing of catch and community infrastructure. The survey will be voluntary, and contacted individuals may decline to participate. Respondents will be asked to answer questions about their motivations for fishing and other factors that affect participation in the suite of West Coast commercial fisheries. Fishing employment information will be collected so that responses can be organized based on a respondent typology. This survey is essential because data on smaller scale fishing practices, values, participation decisions and beliefs about fishing livelihoods are sparse; yet, they are critical to the development of usable fishery ecosystem models that account for non-pecuniary benefits of fishing, as well as the ways in which fishing practices shape individual and community well-being.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0749.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–02392 Filed 2–3–23; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for February 16, 2023, at 9:00 a.m. and will be held via online videoconference. Items of discussion may include buildings, infrastructure, parks, memorials, and public art.

Draft agendas, the link to register for the online public meeting, and additional information regarding the Commission are available on our website: *www.cfa.gov.* Inquiries regarding the agenda, as well as any public testimony, should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *cfastaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated 1 February, in Washington, DC.

Susan M. Raposa,

Technical Information Specialist.

[FR Doc. 2023–02411 Filed 2–3–23; 8:45 am]

BILLING CODE 6330–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2023–0012]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a modified System of Records; comment request.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Consumer Financial Protection Bureau (Bureau), gives notice of the establishment of a revised Privacy Act System of Records. This revised system will collect information to enable the Bureau to carry out its responsibilities with respect to enforcement of title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act and other Federal consumer financial law, including: The investigation of potential violations of Federal consumer financial law; the pursuit of administrative or civil enforcement actions; and the referral of matters, as appropriate, to the Department of Justice or other Federal or State agencies. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes.

DATES: Comments must be received no later than March 8, 2023. The modified system of records will be effective March 20, 2023 unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and docket number (see above Docket No. CFPB–2023–0012), by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: privacy@cfpb.gov.* Include Docket No. CFPB–2023–0012 in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Kathryn Fong, Acting Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically.

All submissions must include the agency name and docket number for this notice. In general, all comments received will be posted without change to *https://www.regulations.gov.* All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Kathryn Fong, Acting Chief Privacy Officer, at (202) 435–7084. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to this email box.

SUPPLEMENTARY INFORMATION: The Bureau revises its Privacy Act System of Records Notice (SORN) ''CFPB.004—Enforcement Database'' to include the exemptions promulgated for the system that were inadvertently omitted when the SORN was last modified. In addition, the Bureau is updating the policies and practices for retention and disposition of records by identifying a National Archives and Records Administration (NARA) approved schedule applicable to the records maintained in the system. Furthermore, the Bureau is making non-substantive revisions to the SORN to align with the Office of Management and Budget's recommended model in Circular A–108, Appendix II.

The report of the revised system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act'' (Dec. 2016),[1] and the Privacy Act of 1974, 5 U.S.C. 552a(r).

SYSTEM NAME AND NUMBER:

CFPB.004—Enforcement Database.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

SYSTEM MANAGER(S):

Consumer Financial Protection Bureau, Chief Operating Officer, 1700 G Street NW, Washington, DC 20552.

[1] Although pursuant to section 1017(a)(4)(E) of the Consumer Financial Protection Act, Public Law 111–203, the Bureau is not required to comply with OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 111–203, title X, sections 1011, 1012, 1021 codified at 12 U.S.C. 5491, 5492, 5511.

PURPOSE(S) OF THE SYSTEM:

The system will collect information to enable the Bureau to: (1) Investigate potential violations of Federal consumer financial law; (2) pursue administrative or civil enforcement actions; and (3) refer matters, as appropriate, to the Department of Justice or other Federal or State agencies. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Covered individuals include: (1) Individuals who are current or former directors, officers, employees, shareholders agents, and independent contractors of covered persons or service providers, who are or have been the subjects of or otherwise associated with an investigation or enforcement action by the Bureau or have been named in connection with suspicious activity reports or administrative enforcement orders or agreement. Covered persons and service providers include banks, savings associations, credit unions, thrifts, non-depository institutions, or other persons, offering, providing, or assisting with the provision of consumer financial products or services. (2) Current, former, and prospective consumers who are or have been customers or prospective customers of, solicited by, or serviced by covered persons or service providers if such individuals have provided information, including complaints about covered persons or service providers, or are or have been witnesses in or otherwise associated with an enforcement action by the Bureau. (3) Applicants, current and former directors, officers, employees, shareholders, agents, and independent contractors of persons and entities that have business relationships with covered persons or service providers who are or have been the subject of an enforcement action by the Bureau. (4) Current, former, and prospective customers of persons and entities that have business relationships with covered persons or service providers that are or have been the subject of an enforcement action by the Bureau, and the customers are complainants against covered persons or service providers, or witnesses in or otherwise associated with an enforcement action. (5) Other individuals who have inquired about or may have information relevant to an investigation or proceeding concerning a possible violation of Federal consumer financial law. Information collected regarding consumer financial products and services is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and aggregate, non-identifiable information is not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the system may contain: Identifiable information about individuals such as name, address, email address, phone number, social security number, employment status, age, date of birth, financial information, credit information, and personal history. Records in this system are collected and generated during the investigation of potential violations and enforcement of laws and regulations under the jurisdiction of the Bureau and may include (1) Records provided to the Bureau about potential or pending investigations, administrative proceedings, and civil litigation; (2) evidentiary materials gathered or prepared by the Bureau or obtained for use in investigations, proceedings, or litigation, and work product derived from or related thereto; (3) staff working papers, memoranda, analyses, databases, and other records and work product relating to possible or actual investigations, proceedings, or litigation; (4) databases, correspondence, and reports tracking the initiation, status, and closing of investigations, proceedings, and litigation; (5) correspondence and materials used by the Bureau to refer criminal and other matters to the appropriate agency or authority, and records reflecting the status of any outstanding referrals; (6) correspondence and materials shared between the Bureau and other Federal and State agencies; (7) consumer complaints made or referred to the Bureau.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from banks, savings association, credit unions, or non-depository institutions or other persons offering or providing consumer financial products or services, current, former, and prospective consumers who are or have been customers or prospective employees and agents of such persons, and current, former, and prospective customers of such entities and persons, and others with information relevant to the enforcement of Federal consumer financial laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the Bureau's Disclosure of Records and Information Rules promulgated in the title of the CFR to:

(1) Appropriate agencies, entities, and persons when (a) the Bureau suspects or has confirmed that there has been a breach of the system of records; (b) the Bureau has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Bureau (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Bureau's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(2) Another Federal agency or Federal entity, when the Bureau determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(3) Another Federal or State agency to (a) permit a decision as to access, amendment, or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(4) The Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;

(5) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(6) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the Bureau or Federal Government and who have a need to access the information in the performance of their duties or activities;

(7) Any authorized agency or component of the Department of Treasury, the Department of Justice (DOJ), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation or other

law enforcement authorities including disclosure by such authorities:

(a) The extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where (i) the United States is a party to or has an interest in the litigation, including where the agency, or an agency component, or an agency official or employee whom the DOJ or the Bureau has agreed to represent, is or may likely become a party, and (ii) the litigation is likely to affect the agency or any component thereof; or

(b) To outside experts or consultants when considered appropriate by Bureau staff to assist in the conduct of agency matters;

(8) The DOJ for its use in providing legal advice to the Bureau or in representing the Bureau in a proceeding before a court, adjudicative body, or other administrative body before which the Bureau is authorized to appear, where the use of such information by the DOJ is deemed by the Bureau to be relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Bureau;

(b) Any employee of the Bureau in his or her official capacity;

(c) Any employee of the Bureau in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the Bureau determines that litigation is likely to affect the Bureau or any of its components;

(9) A grand jury pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge;

(10) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre- hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(11) Appropriate agencies, entities, and persons, including but not limited to potential expert witnesses or witnesses during investigations, to the extent necessary to secure information relevant to the investigation;

(12) Appropriate Federal, State, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy, or license; and

(13) An entity or person that is the subject of supervision or enforcement activities including examinations, investigations administrative proceedings, and litigation, and the attorney or non-attorney representative for that entity or person.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained in paper and electronic media. Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrievable by a variety of fields including, without limitation, the individual's name, address, account number, social security number, transaction number, phone number, date of birth, or by some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Bureau maintains records in accordance with a National Archives and Records Administration (NARA) approved schedule. The records are covered in item 1 of the NARA approved Records Disposition Authority for Enforcement. The disposition of these records is temporary and are destroyed or deleted six months after the end of the calendar year when the record is created. The longest retention period would total 18 months if the information is no longer needed to support a Bureau activity. If the record is being used for a specific matter, then it becomes a matter record and is subject to the disposition schedule as it applies to that matter, which can range from one year beyond the year created to permanently archived for historically significant cases. Per NI–587–12–8, records in this system will be destroyed 15 years after cutoff.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 *et seq.* Address such requests to: Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Instructions are also provided on the Bureau website: *https://www.consumerfinance.gov/foia-requests/submit-request/.*

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of any record contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 *et seq.* Address such requests to: Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Instructions are also provided on the Bureau website: *https://www.consumerfinance.gov/privacy/amending-and-correcting-records-under-privacy-act/.*

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Portions of the records in this system are compiled for law enforcement purposes and are exempt from disclosure under CFPB's Privacy Act regulations and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

HISTORY:

76 FR 45757 (Aug. 1, 2011); 79 FR 6190 (Feb. 3, 2014); 83 FR 23435 (May 21, 2018); 85 FR 3652 (Jan. 22, 2020).

Tannaz Haddadi,

Senior Agency Official for Privacy, Consumer Financial Protection Bureau.

[FR Doc. 2023–02448 Filed 2–3–23; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, February 8, 2023—10:00 a.m. Open; and Wednesday, February 8, 2023—11:00 a.m. Closed (See **MATTERS TO BE CONSIDERED** for each meeting).

PLACE: These meetings will be held remotely.

STATUS: Commission Meetings—Open to the Public (10:00 a.m.) and Closed to the Public (11:00 a.m.)

MATTERS TO BE CONSIDERED:

Decisional Matter: Supplemental NPR to Update 16 CFR part 1101.

All attendees should pre-register for the Commission meeting using the following link: *https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e5e8a9ed4e0568f041338861eafb9f5c3*.

After registering you will receive a confirmation email containing information about joining the meeting.

Briefing Matter: Closed meeting topic.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: February 1, 2023.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2023–02524 Filed 2–2–23; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–23]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–23 with attached Policy Justification and Sensitivity of Technology.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

June 24, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-23, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of the Philippines for defense articles and services estimated to cost $42.4 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

for Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 21–23

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Philippines

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$27.8 million
Other	$14.6 million
TOTAL	$42.4 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Twenty-four (24) AIM–9X Sidewinder Block II Tactical Missiles

Twenty-four (24) AIM 9X Block II Captive Air Training Missiles (CATMs)
Six (6) Tactical Guidance Units
Ten (10) Captive Air Training Missile (CATM) Guidance Units

Non-MDE:

Also included are containers, support and test equipment, spare and repair parts, personnel training and training equipment, publications and technical data, software delivery and support, U.S. Government and contractor technical assistance and other related support; and other related elements of logistical and program support.

(iv) *Military Department:* Navy (PI–P–AAY)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* June 24, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Philippines—AIM–9X Sidewinder Block II Tactical Missiles

The Government of the Philippines has requested to buy twenty-four (24) AIM–9X Sidewinder Block II tactical missiles; twenty-four (24) AIM–9X Block II Captive Air Training Missiles (CATMs); six (6) Tactical Guidance Units; and ten (10) Captive Air Training Missile (CATM) Guidance Units. Also included are containers, support and test equipment, spare and repair parts, personnel training and training equipment, publications and technical data, software delivery and support, U.S. Government and contractor technical assistance and other related support; and other related elements of logistical and program support. The estimated total cost is $42.4 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a strategic partner that continues to be an important force for political stability, peace, and economic progress in South East Asia.

The proposed sale will improve the Philippines' capability to meet current and future threats by enabling the Philippines to deploy fighter aircraft with a short range air-to-air missile defense capability. The Philippines Air Force is modernizing its fighter aircraft to better support its own air defense and maritime security needs. The Philippines will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Raytheon Missile Systems Company, Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require travel of U.S. Government or contractor representatives to the Philippines on a temporary basis for program technical support and management oversight.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–23

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AIM–9X Block II Sidewinder Missile represents a substantial increase in missile acquisition and kinematics performance over the AIM–9M and replaces the AIM–9X Block I Missile configuration. The missile includes a high off-boresight seeker, enhanced countermeasure rejection capability, low drag/high angle of attack airframe and the ability to integrate the Helmet Mounted Cueing System. The software algorithms are the most sensitive portion of the AIM–9X missile. The software continues to be modified via a pre-planned product improvement (P3I) program in order to improve its counter-countermeasure capabilities. No software source code or algorithms will be released.

2. The highest level of classification of defense articles, components, and services included in this potential sale is CONFIDENTIAL.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the Philippines can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of the Philippines.

[FR Doc. 2023–02382 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee (DoDWC); Notice of Federal Advisory Committee Meetings

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of closed federal advisory committee meetings.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meetings of the DoDWC will take place.

DATES:

Tuesday, February 21, 2023, from 10:00 a.m. to 10:30 a.m. and will be closed to the public.

Tuesday, March 7, 2023, from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

Tuesday, March 21, 2023, from 10:00 a.m. to 12:30 p.m. and will be closed to the public.

Tuesday, April 4, 2023, from 10:00 a.m. to 11:00 a.m. and will be closed to the public.

Tuesday, April 18, 2023, from 10:00 a.m. to 1:00 p.m. and will be closed to the public.

Tuesday, May 2, 2023, from 10:00 a.m. to 11:00 a.m. and will be closed to the public.

Tuesday, May 16, 2023 from 10:00 a.m. to 1:00 p.m. and will be closed to the public.

ADDRESSES: The closed meetings will be held by teleconference. FOR FURTHER INFORMATION CONTACT: Mr. Karl Fendt, (571) 372–1618 (voice), *karl.h.fendt.civ@mail.mil.* (email), 4800 Mark Center Drive, Suite 05G21, Alexandria, Virginia 22350 (mailing address). Any agenda updates can be found at the DoDWC's official website: *https://wageandsalary.dcpas.osd.mil/BWN/DODWC/.*

SUPPLEMENTARY INFORMATION: These meetings are being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of these meetings is to provide independent advice and

recommendations on matters relating to the conduct of wage surveys and the establishment of wage schedules for all appropriated fund and non-appropriated fund areas of blue-collar employees within the DoD.

Agendas

February 21, 2023

Opening Remarks by Chair and Designated Federal Officer (DFO).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Savannah, Georgia wage area (AC–042).
3. Survey Specifications for the Western Texas wage area (AC–127).
4. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

March 7, 2023

Opening Remarks by Chair and DFO.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Hennepin, Minnesota wage area (AC–015).
3. Survey Specifications for the Grand Forks, North Dakota wage area (AC–017).
4. Survey Specifications for the Davis-Weber-Salt Lake, Utah wage area (AC–018).
5. Survey Specifications for the Ada-Elmore, Idaho wage area (AC–038).
6. Survey Specifications for the Cascade, Montana wage area (AC–040).
7. Survey Specifications for the Spokane, Washington wage area (AC–043).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

8. Wage Schedule (Full Scale) for the Jacksonville, Florida wage area (AC–030).
9. Wage Schedule (Full Scale) for the Detroit, Michigan wage area (AC–070).
10. Wage Schedule (Full Scale) for the Southeastern North Carolina wage area (AC–101).
11. Wage Schedule (Full Scale) for the Columbus, Ohio wage area (AC–106).
12. Wage Schedule (Wage Change) for the Birmingham, Alabama wage area (AC–002).
13. Wage Schedule (Wage Change) for the Southern Colorado wage area (AC–023).
14. Wage Schedule (Wage Change) for the Hagerstown-Martinsburg-Chambersburg, Maryland wage area (AC–067).
15. Wage Schedule (Wage Change) for the Dayton, Ohio wage area (AC–107).
16. Wage Schedule (Wage Change) for the Harrisburg, Pennsylvania wage area (AC–114).
17. Wage Schedule (Wage Change) for the Wyoming wage area (AC–150).
18. Special Pay—Jacksonville, Florida Special Rates.
19. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

March 21, 2023

Opening Remarks by Chair and DFO.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Sacramento, California wage area (AC–002).
3. Wage Schedule (Full Scale) for the San Joaquin, California wage area (AC–008).
4. Wage Schedule (Full Scale) for the Bernalillo, New Mexico wage area (AC–019).
5. Wage Schedule (Full Scale) for the Dona Ana, New Mexico wage area (AC–021).
6. Wage Schedule (Full Scale) for the El Paso, Texas wage area (AC–023).
7. Wage Schedule (Wage Change) for the Onslow, North Carolina wage area (AC–097).
8. Wage Schedule (Wage Change) for the Shelby, Tennessee wage area (AC–098).
9. Wage Schedule (Wage Change) for the Christian, Kentucky/Montgomery, Tennessee wage area (AC–099).
10. Wage Schedule (Wage Change) for the Charleston, South Carolina wage area (AC–120).
11. Wage Schedule (Wage Change) for the San Juan-Guaynabo, Puerto Rico wage area (AC–155).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

12. Wage Schedule (Full Scale) for the Denver, Colorado wage area (AC–022).
13. Wage Schedule (Full Scale) for the Miami, Florida wage area (AC–031).
14. Wage Schedule (Full Scale) for the Cincinnati, Ohio wage area (AC–104).
15. Wage Schedule (Full Scale) for the Narragansett Bay, Rhode Island wage area (AC–118).
16. Wage Schedule (Wage Change) for the New York, New York wage area (AC–094).
17. Survey Specifications for the Augusta, Georgia wage area (AC–038).
18. Survey Specifications for the Macon, Georgia wage area (AC–041).
19. Survey Specifications for the Southeastern Washington-Eastern Oregon wage area (AC–144).
20. Special Pay—Narragansett Bay, Rhode Island Special Rates
21. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

April 4, 2023

Opening Remarks by Chair and DFO.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Burlington, New Jersey wage area (AC–071).
3. Survey Specifications for the Kent, Delaware wage area (AC–076).
4. Survey Specifications for the Richmond-Chesterfield, Virginia wage area (AC–082).
5. Survey Specifications for the Morris, New Jersey wage area (AC–090).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

6. Survey Specifications for the Duluth, Minnesota wage area (AC–074).
7. Survey Specifications for the San Antonio, Texas wage area (AC–135).
8. Survey Specifications for the Milwaukee, Wisconsin wage area (AC–148).
9. Special Pay—Southeast Power Rate.
10. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

April 18, 2023

Opening Remarks by Chair and DFO.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Lauderdale, Mississippi wage area (AC–001).
3. Wage Schedule (Full Scale) for the Lowndes, Mississippi wage area (AC–004).
4. Wage Schedule (Full Scale) for the Rapides, Louisiana wage area (AC–024).

5. Wage Schedule (Full Scale) for the Caddo-Bossier, Louisiana wage area (AC–025).
6. Wage Schedule (Full Scale) for the Chatham, Georgia wage area (AC–037).
7. Wage Schedule (Full Scale) for the Dougherty, Georgia wage area (AC–046).
8. Wage Schedule (Full Scale) for the Lowndes, Georgia wage area (AC–047).
9. Wage Schedule (Wage Change) for the Oklahoma, Oklahoma wage area (AC–052).
10. Wage Schedule (Wage Change) for the Harrison, Mississippi wage area (AC–070).
11. Wage Schedule (Wage Change) for the Hardin-Jefferson, Kentucky wage area (AC–096).
12. Wage Schedule (Wage Change) for the Wayne, North Carolina wage area (AC–107).
13. Wage Schedule (Wage Change) for the Cumberland, North Carolina wage area (AC–108).
14. Wage Schedule (Wage Change) for the Richland, South Carolina wage area (AC–110).
15. Wage Schedule (Wage Change) for the Wichita, Texas wage area (AC–122).
16. Wage Schedule (Wage Change) for the Comanche, Oklahoma wage area (AC–123).
17. Wage Schedule (Wage Change) for the Craven, North Carolina wage area (AC–164).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

18. Wage Schedule (Full Scale) for the Fresno, California wage area (AC–012).
19. Wage Schedule (Full Scale) for the Sacramento, California wage area (AC–014).
20. Wage Schedule (Full Scale) for the Stockton, California wage area (AC–020).
21. Wage Schedule (Full Scale) for the Louisville, Kentucky wage area (AC–059).
22. Wage Schedule (Full Scale) for the Jackson, Mississippi wage area (AC–078).
23. Wage Schedule (Full Scale) for the Meridian, Mississippi wage area (AC–079).
24. Wage Schedule (Full Scale) for the Eastern Tennessee wage area (AC–123).
25. Wage Schedule (Wage Change) for the Salinas-Monterey, California wage area (AC–015).
26. Wage Schedule (Wage Change) for the Lexington, Kentucky wage area (AC–058).
27. Wage Schedule (Wage Change) for the Northern Mississippi wage area (AC–077).
28. Wage Schedule (Wage Change) for the Rochester, New York wage area (AC–096).
29. Wage Schedule (Wage Change) for the Memphis, Tennessee wage area (AC–124).
30. Wage Schedule (Wage Change) for the Nashville, Tennessee wage area (AC–125).
31. Survey Specifications for the Boise, Idaho wage area (AC–045).
32. Survey Specifications for the Utah wage area (AC–139).
33. Survey Specifications for the Spokane, Washington wage area (AC–145).
34. Special Pay—Fresno, California Special Rates
35. Special Pay—Northern Mississippi Special Rates
36. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

May 2, 2023

Opening Remarks by Chair and DFO.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Monterey, California wage area (AC–003).
3. Survey Specifications for Kern, California wage area (AC–010).
4. Survey Specifications for the San Diego, California wage area (AC–054).
5. Survey Specifications for the Solano, California wage area (AC–059).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

6. Survey Specifications for the Dothan, Alabama wage area (AC–003).
7. Survey Specifications for the Pittsburgh, Pennsylvania wage area (AC–116).
8. Survey Specifications for the Puerto Rico wage area (AC–151).
9. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

May 16, 2023

Opening Remarks by Chair and DFO.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Richmond, Georgia wage area (AC–035).
3. Wage Schedule (Full Scale) for the Houston, Georgia wage area (AC–036).
4. Wage Schedule (Full Scale) for the Pulaski, Arkansas wage area (AC–045).
5. Wage Schedule (Full Scale) for the Montgomery, Alabama wage area (AC–048).
6. Wage Schedule (Full Scale) for the Sedgwick, Kansas wage area (AC–078).
7. Wage Schedule (Full Scale) for the Montgomery-Greene, Ohio wage area (AC–166).
8. Wage Schedule (Wage Change) for the Cumberland, Pennsylvania wage area (AC–092).
9. Wage Schedule (Wage Change) for the York, Pennsylvania wage area (AC–093).
10. Wage Schedule (Wage Change) for the Honolulu, Hawaii wage area (AC–106).
11. Wage Schedule (Wage Change) for the Norfolk-Portsmouth-Virginia Beach, Virginia wage area (AC–111).
12. Wage Schedule (Wage Change) for the Hampton-Newport News, Virginia wage area (AC–112).
13. Wage Schedule (Wage Change) for the Harford, Maryland wage area (AC–148).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

14. Wage Schedule (Full Scale) for the Northeastern Arizona wage area (AC–008).
15. Wage Schedule (Full Scale) for the Phoenix, Arizona wage area (AC–009).
16. Wage Schedule (Full Scale) for the Tucson, Arizona wage area (AC–010).
17. Wage Schedule (Full Scale) for the Minneapolis-St. Paul, Minnesota wage area (AC–075).
18. Wage Schedule (Full Scale) for the Albany-Schenectady-Troy, New York wage area (AC–091).
19. Wage Schedule (Full Scale) for the Northern New York wage area (AC–095).
20. Wage Schedule (Full Scale) for the West Virginia area (AC–146).
21. Wage Schedule (Wage Change) for the Reno, Nevada wage area (AC–086).
22. Wage Schedule (Wage Change) for the Syracuse-Utica-Rome, New York wage area (AC–097).
23. Wage Schedule (Wage Change) for the North Dakota wage area (AC–103).
24. Wage Schedule (Wage Change) for the Houston-Galveston-Texas City, Texas wage area (AC–133).
25. Survey Specifications for the Washington, District of Columbia wage area (AC–027).
26. Survey Specifications for the Columbus, Georgia wage area (AC–040).
27. Survey Specifications for the Charlotte, North Carolina wage area (AC–100).
28. Survey Specifications for the Oklahoma City, Oklahoma wage area (AC–109).
29. Special Pay—Pacific Northwest Power Rate

30. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b(c)(4), the DoD has determined that the meetings shall be closed to the public. The USD(P&R), in consultation with the DoD Office of General Counsel, has determined in writing that each of these meetings is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Written Statements: Pursuant to section 10(a)(3) of the Federal Advisory Committee Act and 41 CFR 102–3.140, interested persons may submit written statements to the DFO for the DoDWC at any time. Written statements should be submitted to the DFO at the email or mailing address listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the DoDWC until its next meeting. The DFO will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice.

Dated: February 1, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–02485 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–40]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–40 with attached Policy Justification and Sensitivity of Technology.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

April 29, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-40, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Australia for defense articles and services estimated to cost $1.685 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 21–40

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ .500 billion
Other	$1.185 billion
TOTAL	$1.685 billion

(iii) *Description and Quantity or Quantities of Articles or Services under consideration* for Purchase:

Major Defense Equipment (MDE):

One hundred sixty (160) M1A1 Tank structures/hulls provided from stock in order to produce the following end items and spares:

Seventy-five (75) M1A2 SEPv3 Abrams Main Battle Tanks

Twenty-nine (29) M1150 Assault Breacher Vehicles

Eighteen (18) M1074 Joint Assault Bridges

Six (6) M88A2 Hercules Combat Recovery Vehicles

One hundred twenty-two (122) AGT1500 Gas Turbine Engines

Non-MDE:

Also included is development of a unique armor package, Common Remotely Operated Weapon Station Low Profile (CROWS–LP), Driver's Vision Enhancer, mission equipment, special tools and test equipment, ground support equipment, system and engine

spare parts, technical data, publications, Modification Work Orders/Engineering Change Proposals (MWO/ECPs), U.S. Government and contractor technical and logistics assistance, quality assurance teams, transportation services, program management, New Equipment Training (NET); and other related elements of logistical and program support.

(iv) *Military Department:* Army (AT–B–ULU, AT–B–ULX, AT–B–UKQ, AT–B–UKX)

(v) *Prior Related Cases, if any:* AT–B–ZZH, AT–B–UHQ, AT–B–UIZ, AT–B–UIG

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* April 29, 2021

*As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Australia—Heavy Armored Combat Systems

The Government of Australia has requested to buy one hundred sixty (160) M1A1 Tank structures/hulls provided from stock in order to produce the following end items and spares: seventy-five (75) M1A2 SEPv3 Abrams Main Battle Tanks; twenty-nine (29) M1150 Assault Breacher Vehicles; eighteen (18) M1074 Joint Assault Bridges; six (6) M88A2 Hercules Combat Recovery Vehicles; and one hundred twenty-two (122) AGT1500 gas turbine engines. Also included is development of a unique armor package, Common Remotely Operated Weapon Station Low Profile (CROWS–LP), Driver's Vision Enhancer, mission equipment, special tools and test equipment, ground support equipment, system and engine spare parts, technical data, publications, Modification Work Orders/Engineering Change Proposals (MWO/ECPs), U.S. Government and contractor technical and logistics assistance, quality assurance teams, transportation services, program management, New Equipment Training (NET); and other related elements of logistical and program support. The total estimated value is $1.685 billion.

This proposed sale will support the foreign policy and national security objectives of the United States. Australia is one of our most important allies in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. It is vital to the U.S. national interest to assist our ally in developing and maintaining a strong and ready self-defense capability.

The proposed sale improves Australia's capability to meet current and future threats by enhancing the lethality, survivability, and interoperability of the Australian Army. Australia will use the enhanced capability to strengthen its homeland defense and deter regional threats. The M1A2 SEPv3 Main Battle Tanks will upgrade the current Australian fleet of M1A1 SA tanks with no changes to Royal Australian Armoured Corps force structure. Additional M88A2 vehicles provide de-processing and combat vehicle recovery support for the Australian tank fleet. The M1150 Assault Breacher Vehicles (ABVs) and M1074 Joint Assault Bridges (JABs) will be a new capability for the Royal Australian Engineers, bringing under-armor bridging and breaching capability, increasing the effectiveness and survivability of Australian Combat Engineers and providing increased mobility for the armored fleet. Australia will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be General Dynamics Land Systems, Sterling Heights, MI; BAE Systems, York, PA; Leonardo DRS, Arlington, VA; and Honeywell Aerospace, Phoenix, AZ. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor(s).

Implementation of this sale will require the assignment of approximately 10 additional U.S. or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–40

Notice of Proposed Issuance of Letter of Offer and Acceptance Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. M1A2 System Enhancement Package 3 (SEPv3) Main Battle Tank. The M1A2 Abrams is a third-generation American main battle tank, produced by General Dynamics Land Systems. The M1A2 SEPv3 features include a multi-fuel turbine engine, composite armor, an advanced computer fire control system, separate ammunition storage in a blow-out compartment, and 120mm main gun. Extensive improvements have been implemented to the latest M1A2 SEPv3 configuration. These include improved digital systems, increased electrical power margin to support demands of future technologies, line replaceable modules (LRM) to reduce operational support costs, ammunition data link to support new tank main gun rounds, and an auxiliary power unit (APU). The M1A2 Thermal Imaging System (TIS) and M1A2 Commander's Independent Thermal Viewer (CITV) constitute the system's target acquisition system, which, when operated with other tank systems gives the tank crew a substantial battlefield advantage. The TIS provides the M1A2 crew with the ability to effectively aim and fire the tank main armament system under a broad range of adverse battlefield conditions. The TIS can be operated and viewed by the tank gunner or tank commander, and is the main sighting system for the tanks' main gun (cannon.) The CITV provides the same target acquisition system as the TIS, but provides the tank commander a separate system that can be controlled and operated independent of the TIS. Australia has commissioned the development and production of bespoke Turret Front armor to be used in their M1A2SEPv3. This armor is being developed by the USG in consultation and coordination with the CoA to ensure that it is optimized to their perceived threat matrix.

2. The Abrams 120mm main gun system is composed of a 120 millimeter smoothbore gun manufactured at Watervliet Arsenal. Gun production and design technology are generally well known.

3. The use of a gas turbine propulsion system in the M1A2 is a unique application of armored vehicle power pack technology. The hardware is composed of the AGT–1500 engine and transmission, and while the system is not a critical military technology the manufacturing processes associated with the turbine blades, recuperator, bearings and shafts, and hydrostatic pump and motor are proprietary and therefore commercially competition sensitive.

4. The Common Remotely Operated Weapon Station—Low Profile (CROWS–LP) is the M1A2 commander's weapon station, and allows for under-armor operation of the weapons on the system including the M2HB, M2A1, M240B and M240 machine guns. The CROWS–LP is an updated version of the M153A2 CROWS, is approximately 10 inches shorter, and offers increased visibility to the user. The fire control system of the

CROWS–LP allows for ''first-burst'' on target capability from stationary and moving platforms. The CROWS–LP ingratiates a day camera (VIM–C), thermal camera (TIM 1500) and laser range finder (STORM/STORM–PI).

5. The Driver Vision Enhancer—Abrams (DVE–A) and Rear View Sensor System (RVSS) are un-cooled thermal imaging systems developed for use while driving combat vehicles and tactical wheeled vehicles. The DVE–A provides night vision capability for the Abrams tank driver. RVSS provides a rear view camera for the Abrams tank. DVE–A and RVSS allow for tactical vehicle movement in support of operational missions in all environmental conditions (day/night and all weather) and provides enhanced driving capability during limited visibility conditions.

6. M88A2 Heavy Equipment Recovery Vehicle. M88A2 Heavy Equipment Recovery Combat Utility Lifting Extraction System (HERCULES) Combat Recovery Vehicle is to extricate combat vehicles that have become bogged down or entangled, and to repair or replace damaged parts in fighting vehicles while under fire. The 70-ton M88A2 Recovery Combat Vehicle is standard equipment to de-process, recover, and sustain the Abrams M1 Tank.

7. The M88A2's AVDS–1790–8CR is a unique modification to the standard piston engine family in the M60 series and the base M88Al. Manufacturing processes associated with the production of turbochargers, fuel injection system, and cylinders are proprietary and therefore commercially competition sensitive.

8. The Driver's Vision Enhancer—Combat Vehicle M88 is an un-cooled thermal imaging system developed for use on combat and tactical wheeled vehicles. It allows for tactical vehicle movement in all environmental and limited visibility conditions. The DVE–CV for M88 vehicle is a platform-mounted night vision device that requires external power supply and is integrated into the vehicle. The M88 is also equipped with CROWS–LP (M153A2E1), described above for the Abrams.

9. The Assault Breacher Vehicle (ABV). The ABV is a highly mobile and heavily armored minefield and complex obstacle breaching system. It consists of an M1 Abrams tank hull, a unique turret with two Linear Demolition Charge Systems (employing two Mine Clearing Line Charges (MCLC) and rockets), a Lane Marking System (LMS), Integrated Vision System, and a High Lift Adapter that interchangeably mounts mine plows, rollers, and dozer blades.

10. The Driver Vision Enhancer. Abrams (DVE–A) and Assault Breacher Vehicle Integrated Vision System (IVS) are un-cooled thermal imaging systems developed for use while driving combat vehicles and tactical wheeled vehicles. The DVE–A provides night vision capability for the ABV tank driver. IVS provides a rear view camera for the ABV. The ABV is equipped with the AGT 1500 Gas Turbine Propulsion System and the CROWS–LP described in the Abrams and M88A2 sections above.

11. The ABV is equipped with a Magnetic Signature Duplicator which mounts to the forward engineering attachments. It generates a magnetic perturbation which causes magnetically fused mines to detonate well forward of the vehicle through the use of an emitted magnetic field.

12. The Joint Assault Bridge (JAB) provides Army Engineer units supporting Armored Brigade Combat Teams with a survivable, deployable and sustainable heavy-assault bridging capability. The JAB provides a gap-crossing capability to cross wet or dry gaps to provide freedom of maneuver on the battlefield and keep pace with Abrams Brigade Combat Team operations. The JAB consists of an M1A2 Abrams tank hull integrated with a hydraulic bridge launcher system to deploy the Armored Vehicle Launched Bridge (AVLB) Military Load Class 95 Scissor Bridge. The JAB is equipped with the Driver Vision Enhancer—Abrams and the Rear View Sensor Systems described above.

13. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

14. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

15. A determination has been made that the Government of Australia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

16. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Australia.

[FR Doc. 2023–02377 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–0H]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(5)(C) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–0H.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

April 21, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 21-0H. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 12-39 of July 20, 2012.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal

BILLING CODE 5001–06–C

Transmittal No. 21–0H

Report of Enhancement or Upgrade of Sensitivity of Technology or Capability (Sec. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Thailand

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 12–39

Date: July 20, 2012

Implementing Agency: Army

Funding Source: National Funds

(iii) *Description:* On July 20, 2012, Congress was notified by Congressional certification transmittal number 12–39, of the possible sale, to the Government of Thailand of 4 UH–60M Black Hawk Helicopters, 10 T700–GE–701D Engines (8 installed and 2 spares), warranty, support equipment, spare and repair parts, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance, and other related logistics support. The estimated cost was $235 million. Major Defense Equipment (MDE) constituted $170 million of this total.

On July 28, 2017, CN 0M–16 reported the inclusion of eight (8) H–764ACE Embedded Global Position System (GPS)/Inertial Navigation Systems (EGI) units as MDE. Although the value of the EGI was included in the total value of the case and the original notification, it was not enumerated as MDE in the original notification. Upgrading the status of this equipment to MDE did not result in a net increase in cost of MDE. The total case value remained $235 million.

On October 17, 2018, CN 0Q–18 reported the addition of two spare Embedded Global Position System (GPS)/Inertial Navigation Systems (EGI) units valued at $371,970. These additions did not result in an increase

to the MDE cost of $170 million or to the total case value of $235 million.

This transmittal notifies inclusion of the following additional MDE items:

1) Eight (8) UH–60M Black Hawk helicopters in standard USG configuration with designated unique equipment and Government Furnished Equipment (GFE)

2) Seventeen (17) T700–GE–701D engines (includes 1 spare)

The following non-MDE items will also be included: H–764ACE/EAGLE+429 Embedded Global Position System/Inertial Navigation Systems (EGIs); AN/APX–117A Identification Friend or Foe (IFF) transponders; AN/ARC–201E RT–1478E (or designated replacement); MXF–4027 radios (or designated replacement); Aviation Mission Planning Systems (AMPS); Engine Inlet Barrier Filter (EIBF) System; External Rescue Hoist (ERH); C–406 Emergency Locator Transmitter (ELT); LRIP Crew Chief Gunner Seats; basic aircraft warranty; CONUS and OCONUS air worthiness support; calibration services; spare and repair parts; aviation and peculiar ground support equipment; communication equipment; publications and technical documentation; personnel and equipment training; site surveys; special tools and test equipment; U.S. Government and contractor technical and logistics support services; and other related elements of logistics and program support.

The addition of these items will result in a net increase in MDE cost of $240 million, resulting in a revised MDE cost of $410 million. The additional non-MDE items will result in a net increase of $100 million. The total estimated case value will increase to $575 million.

(iv) *Significance:* Thailand intends to use the UH–60s to modernize its armed forces by updating its military capabilities and improving interoperability between Thailand and the United States and other allies.

(v) *Justification:* This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a Major Non-NATO ally which is an important force for political stability and economic progress in the Indo-Pacific region.

(vi) *Sensitivity of Technology:*

The UH–60M aircraft is a medium lift four bladed aircraft which includes two (2) T–701D Engines. The aircraft has four (4) Multifunction Displays (MFD), which provides aircraft system, flight, mission, and communication management systems. The instrumentation panel includes four (4) Multifunction Displays (MFDs), two (2) Pilot and Co-Pilot Flight Director Panels, and two (2) Data Concentrator Units (DCUs). The Navigation System will have Embedded GPS/INS (EGIs), and two (2) Advanced Flight Control Computer Systems (AFCC), which provide 4 axis aircraft control.

Honeywell H–764ACE/EAGLE+429 Embedded Global Position System/Inertial Navigation System (EGI) provides GPS and INS capabilities to the aircraft. The EGI will include Selective Availability Anti-Spoofing Module (SAASM) security modules to be used for secure GPS PPS, if required.

The AN/APX–117, Identification Friend or Foe (IFF) Transponder, is a space diversity transponder and is installed on various military platforms. When installed in conjunction with platform antennas and the Remote Control Unit (or other appropriate control unit), the transponder provides identification, altitude and surveillance reporting in response to interrogations from airborne, ground-based and/or surface interrogators.

The AN/ARC–201E (or designated equivalent), Single Channel Ground to Air Radio System (SINCGARS), is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication and data communication with ground units. The system uses 25 kHz channels in the very high frequency (VHF) FM band, from 30.000 to 87.975 megahertz (MHz). The ARC–201E/RT–1478E is the commercial, exportable version of the ARC–201D/RT–1478D radio system that does not include Military/NSA COMSEC capabilities. The system and Data Rate Adapter (DRA) combines three Line Replaceable Units into one and reduces overall weight of the aircraft.

The MXF–4027 (or designated equivalent) is the commercial, exportable version of the ARC–231/RT–1808A radio system. This is a software-definable radio for military aircraft that provides two-way, multi-mode voice and data communications in the 30 Hz to 512 MHz frequency range. It covers both line-of-sight Ultra High Frequency (UHF) and Very High Frequency (VHF) bands with SATCOM capabilities, including Integrated Waveform (IW). The MXF–4027 radio also includes embedded frequency agile modes, Demand Assigned Multiple Access (DAMA), Integrated Waveform (IW), operator selectable Air Traffic Control (ATC) channel spacing of 5, 8.33, 12.5, and 25kHz steps, and other data link features.

The highest level of classification of defense articles, components, and services included in this potential sale is UNCLASSIFIED.

(vii) *Date Report Delivered to Congress:* April 21, 2021

[FR Doc. 2023–02379 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–39]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–39 with attached Policy Justification and Sensitivity of Technology.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

May 19, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-39 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Greece for defense articles and services estimated to cost $165 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Section 620C(d) Certification

BILLING CODE 5001–06–C

Transmittal No. 21–39

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Greece

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0 million
Other	$165 million
TOTAL	$165 million

* Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-MDE:

Included are U.S. Government, technical, and logistics support services and requisitions supporting the Foreign Military Sales Order II (FMSO II) and Cooperative Logistics Supply Support Arrangement (CLSSA) for stock replenishment,

supply of standard spare parts, and repair/replace of spare parts to support the Hellenic Air Force's defensive and transport aerial fleets; all other aircraft systems and subsystems; and other related elements of program support.

(iv) *Military Department:* Air Force (GR–D–KIX)

(v) *Prior Related Cases, if any:* GR–D–KAA, GR–D–KIW

(vi) *Sales Commission, Fee, etc. Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* May 19, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Greece—FMSO II, CLSSA Services

The Government of Greece has requested to buy U.S. Government, technical, and logistics support services and requisitions supporting the Foreign Military Sales Order II (FMSO II) and Cooperative Logistics Supply Support Arrangement (CLSSA) for stock replenishment, supply of standard spare parts, and repair/replace of spare parts to support the Hellenic Air Force's defensive and transport aerial fleets; all other aircraft systems and subsystems; and other related elements of program support. The estimated total cost is $165 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a NATO ally, which is an important partner for political stability and economic progress in Europe.

The proposed sale will improve Greece's capability to meet current and future threats by providing agile logistics support to active Foreign Military Sales support cases, including Greece's defensive and transport aerial fleets, as well as other support equipment of U.S. origin that are currently in use with the Hellenic Air Force and which can be supported by the CLSSA program. The ability to place blanket order requisitions will increase its interoperability with NATO forces and enhance its ability to provide for the security of its borders. Greece has demonstrated a continued commitment to modernizing its military and will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of these services will not alter the basic military balance in the region.

There are no principal contractors for this proposed sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives outside the United States.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2023–02374 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–36]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–36 with attached Policy Justification and Sensitivity of Technology.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

June 24, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-36, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of the Philippines for defense articles and services estimated to cost $120 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 21–36

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Philippines

(ii) *Total Estimated Value:*

Major Defense Equipment	$ 45 million
Other	$ 75 million
TOTAL	$120 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Twelve (12) AGM–84L–1 Harpoon Block II Air Launched Missiles

Two (2) ATM–84L–1 Harpoon Block II Exercise Missiles

Non-MDE:

Also included are containers; spare and repair parts; support and test equipment; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistical support services; and other related elements of logistical and program support.

(iv) *Military Department:* Navy (PI–P–AAZ)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* June 24, 2021

*As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Philippines—AGM–84L–1 Harpoon Air Launched Block II Missiles

The Government of the Philippines has requested to buy twelve (12) AGM–84L–1 Harpoon Block II air launched missiles; and two (2) ATM–84L–1 Harpoon Block II Exercise missiles. Also included are containers; spare and repair parts; support and test equipment; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistical support services; and other related elements of logistical and program support. The estimated total cost is $120 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a strategic partner that continues to be an important force for political stability, peace, and economic progress in South East Asia.

The proposed sale will enhance the Philippines' interoperability with the U.S. and other allied nations, making it a more valuable partner in an increasingly important area of the world. It will improve the Philippines' capability to meet current and future threats by providing flexible solutions to augment existing surface and air defense. The Philippine Air Force is modernizing its fighter aircraft to better support its own maritime security needs. This capability will provide the Philippine Air Force the ability to employ a highly reliable and effective system to counter or deter maritime aggressions, coastal blockades, and amphibious assaults. The Philippines will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be The Boeing Company, St. Louis, MO. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require travel of U.S. Government or contractor representatives to the Philippines on a temporary basis for program technical support and management oversight.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–36

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Harpoon missile is a non-nuclear tactical weapon system currently in service in the U.S. Navy and in 29 other foreign nations. It provides a day, night, and adverse weather, standoff air-to-surface capability and is an effective Anti-Surface Warfare missile. The AGM–84L incorporates components, software, and technical design information that are considered sensitive, to include:

- The Radar Seeker
- The Radar Altimeter
- The GPS/INS System
- Operational Flight Program Software
- Missile operational characteristics and performance data

These elements are essential to the ability of the Harpoon missile to selectively engage hostile targets under a wide range of operations, tactical and environmental conditions.

2. The highest level of classification of defense articles, components, and services included in this potential sale is CONFIDENTIAL.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the Philippines can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of the Philippines.

[FR Doc. 2023–02376 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–85]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–85 with attached Policy Justification and Sensitivity of Technology.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

JUL 0 1 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-85 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Kuwait for defense articles and services estimated to cost $445 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

BILLING CODE 5001–06–C

Transmittal No. 20–85

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Government of Kuwait.

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0 million
Other	$445 million
TOTAL	$445 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of Kuwait has requested to buy five hundred seventeen (517) total Heavy Tactical Vehicles consisting of Heavy Expanded Mobility Tactical Trucks (HEMTT) and Heavy Equipment Transporters (HET). These items include:

Major Defense Equipment (MDE):

None.

Non-MDE:

Thirty-one (31) HEMTT Wrecker Trucks (M984A4 ten-ton with crane and winch); one hundred (100) HEMTT Fuel Tanker Trucks (M978A4, ten-ton, 2,500 gallon); one hundred eighty-eight (188) Guided Missile Transporter Trucks (M985A4, ten-ton with winch); fifty (50) Heavy Equipment Transporter (HET) Trucks (M1070A1); fifty (50) 635NL Commercial Trailers for use with HET

prime movers; forty-nine (49) Palletized Load System (PLS) Trailers (M1076A0); PLS Flat Rack (M1077 with sides); elements of logistical, contract, and other support services including spare parts; special tools and test equipment; tool sets; standard technical manuals; OCONUS operator and maintainer new equipment training (NET); Contractor Logistics Support (CLS) including Field Service Representatives (FSRs); de-processing services; construction of a heavy tactical vehicle maintenance facility; U.S. Government-furnished program management; and other related elements of logistical and program support.

(iv) *Military Department:* Army (KU–B–UYB).

(v) *Prior Related Cases, if any:* None.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 1, 2021.

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Kuwait—Heavy Tactical Vehicles

The Government of Kuwait has requested to buy five hundred seventeen (517) total Heavy Tactical Vehicles consisting of Heavy Expanded Mobility Tactical Trucks (HEMTT) and Heavy Equipment Transporters (HET). These items include: thirty-one (31) HEMTT Wrecker Trucks (M984A4 ten-ton with crane and winch); one hundred (100) HEMTT Fuel Tanker Trucks (M978A4, ten-ton, 2,500 gallon); one hundred eighty-eight (188) Guided Missile Transporter Trucks (M985A4, ten-ton with winch); fifty (50) Heavy Equipment Transporter (HET) Trucks (M1070A1); fifty (50) 635NL Commercial Trailers for use with HET prime movers; forty-nine (49) Palletized Load System (PLS) Trailers (M1076A0); PLS Flat Rack (M1077 with sides); elements of logistical, contract, and other support services including spare parts, special tools and test equipment; tool sets; standard technical manuals; OCONUS operator and maintainer new equipment training (NET); Contractor Logistics Support (CLS) including Field Service Representatives (FSRs); de-processing services; construction of a heavy tactical vehicle maintenance facility; U.S. Government-furnished program management; and other related elements of logistical and program support. The estimated total case value is $445 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a Major Non-NATO ally that is an important force for political stability and economic progress in the Middle East.

This proposed sale will improve Kuwait's capability to meet current and future threats by providing tactical logistics, sustainment, and transportation support to the country's Land Force Support Command. HEMTT Wreckers provide the capability to recover disabled wheeled vehicles. The other HEMTTs include Fuel Tankers and Guided Missile Transporters to perform resupply missions. The HEMTT and Palletized Load System trailers transport bulk supplies to include fuel, ammunition, spare parts, and rations. Kuwait will use these heavy vehicles to transport and support heavy equipment, including their legacy M1A2 tanks and their new M1A2K main battle tank slated for delivery in 2021. Kuwait will have no difficulty absorbing this equipment and the associated services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Oshkosh Defense, LLC, Oshkosh, WI, for HEMTTs, HETs, PLS trailers, and support. The sub-contractor for commercial 635NL trailers will be Fontaine Trailers, Springville, AL. The sub-contractor for trailer flat racks will be Etnyre, Oregon, IL. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of ten to fifteen (10–15) embedded U.S. contractor representatives to Kuwait for duration of a five (5) year program to provide training, field service representatives, fleet support, program management, and facility construction oversight.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–85

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. Heavy Tactical Vehicles (HTV) are used to provide tactical sustainment, logistics, transportation, and combat support for land forces in the field. The M984A4 Wrecker Heavy Expanded Mobility Tactical Truck (HEMTT) (SME) is used to recover disabled vehicles and pull various vehicles in use by land forces. Other variants of HEMTT and the associated trailers are used to transport bulk supplies of all classes, to include fuel, ammunition, spare parts, and rations. The M985A4 HEMTT is designed to carry and transport missiles. The 70-Ton Heavy Equipment Transporter (HET M1070A1 and commercial trailers) are used to transport and pull heavy equipment up to and including the heavy armored brigade M1A2 main battle tank.

2. This case will include wiring harnesses and mounting hardware for radio equipment, but the sale of radios are not included within the scope of this proposed sale.

3. The highest level of classification of defense articles, components, and services included in this sale is UNCLASSIFED.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that the Government of Kuwait can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Kuwait.

[FR Doc. 2023–02380 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–43]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of

section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–43 with attached Policy Justification and Sensitivity of Technology.

Dated: January 31, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

May 24, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-43 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Spain for defense articles and services estimated to cost $110 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification

BILLING CODE 5001–06–C

Transmittal No. 21–43

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Government of Spain

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0 million
Other	$110 million
TOTAL	$110 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): None

Non-MDE:

Follow on Contractor Logistics Support to include contractor provided MQ–9A Blk 5 aircraft components, spares, and accessories; repair and return; software and software support services; simulator software; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor provided engineering, technical and logistical support services; and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (SP–D–QAF)

(v) *Prior Related Cases, if any:* SP–D–GAI, SP–D–SAA

(vi) *Sales Commission, Fee, etc., Paid Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* May 24, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Spain—Follow-On Contractor Logistics Support (CLS) for MQ–9A Blk 5 Aircraft

The Government of Spain has requested to buy follow on Contractor Logistics Support to include contractor provided MQ–9A Blk 5 aircraft components, spares, and accessories; repair and return; software and software support services; simulator software; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor provided engineering, technical and logistical support services; and other related elements of logistical and program support. The total estimated program cost is $110 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a NATO ally which is an important force for political stability and economic progress in Europe.

This proposed sale will improve Spain's capability to meet current and future threats by ensuring the operational readiness of the Royal Spanish Air Force. Spain's MQ–9A aircraft fleet provides Intelligence, Surveillance, and Reconnaissance support that directly supports U.S. and coalition operations around the world. Spain will have no difficulty absorbing these support services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be General Atomics, Palmdale, CA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Spain.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2023–02378 Filed 2–3–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0141]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2024

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 8, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2024.

OMB Control Number: 1850–0928.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 833,139.

Total Estimated Number of Annual Burden Hours: 519,605.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Public Law 107–279 Title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive,

or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. NAEP consists of two assessment programs: the NAEP long-term trend (LTT) assessment and the main NAEP assessment. The LTT assessments are given at the national level only and are administered to students at ages 9, 13, and 17 in a manner that is very different from that used for the main NAEP assessments. LTT reports mathematics and reading results that present trend data since the 1970s. In addition to the operational assessments, NAEP uses two other kinds of assessment activities: pilot assessments and special studies. Pilot assessments test items and procedures for future administrations of NAEP, while special studies (including the National Indian Education Study (NIES), the Middle School Transcript Study (MSTS), and the High School Transcript Study (HSTS)) are opportunities for NAEP to investigate particular aspects of the assessment without impacting the reporting of the NAEP results.

This request is to conduct NAEP in 2024, specifically: (1) Main NAEP operational assessments in 2024 for grade 4 (reading and mathematics), 8 (reading, mathematics and science), and 12 (reading and mathematics). In Puerto Rico, grades 4 and 8 mathematics will be the only subject assessed; (2) Pilot testing for new frameworks in mathematics (mainland U.S. and Puerto Rico) and reading for grades 4 and 8; (3) Middle School Transcript Study (MSTS); (4) High School Transcript Study (HSTS); and (5) National Indian Education Study (NIES) for grades 4 and 8.

Three additional 30-day packages will be submitted in February, April, and August 2023 in order to update all materials in time for the data collection in early 2024.

Dated: February 1, 2023.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–02414 Filed 2–3–23; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act notice; notice of public meeting agenda.

SUMMARY: Public Meeting: U.S. Election Assistance Commission Local Leadership Council Meeting.

DATES: Tuesday, February 21, 2023, 1:00 p.m.–2:30 p.m. Eastern.

ADDRESSES: Virtual via Zoom.

The meeting is open to the public and will be livestreamed on the U.S. Election Assistance Commission YouTube Channel: *https://www.youtube.com/channel/UCpN6i0g2rlF4ITWhwvBwwZw*.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will conduct a virtual meeting of the EAC Local Leadership Council.

Agenda: The U.S. Election Assistance Commission (EAC) Local Leadership Council (LLC) will be discussing the organizational structure of the LLC and voting on the adoption of the initial Bylaws.

Background: The Local Leadership Council was established in June 2021 under agency authority pursuant to and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2). The Advisory Committee is governed by the Federal Advisory Committee Act, which sets forth standards for the formation and use of advisory committees. The Advisory Committee shall advise the EAC on how best to fulfill the EAC's statutory duties set forth in 52 U.S.C. 20922 as well as such other matters as the EAC determines. It shall provide a relevant and comprehensive source of expert, unbiased analysis and recommendations to the EAC on local election administration topics to include but not limited to voter registration, voting system user practices, ballot administration (programming, printing, and logistics), processing, accounting, canvassing, chain of custody, certifying results, and auditing.

The Local Leadership Council consists of 100 members. The Election Assistance Commission appoints two members from each state after soliciting nominations from each state's election official professional association. At the time of submission, the Local Leadership Council has 85 appointed members. Upon appointment, LLC members must currently be serving or have previously served in a leadership role in a state election official professional association.

The full agenda will be posted in advance on the EAC website: *https://www.eac.gov.*

Status: This meeting will be open to the public.

Camden Kelliher,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2023–02532 Filed 2–2–23; 11:15 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 8, 2023; 6 p.m–8 p.m. ET.

ADDRESSES: This hybrid meeting will be in-person at the Department of Energy (DOE) Information Center (address below) and virtually via Zoom. To provide a safe meeting environment, seating may be limited. To attend virtually or to register for in-person attendance, please send an email to: *orssab@orem.doe.gov* by 5 p.m. ET on Wednesday, March 1, 2023.

Board members, DOE representatives, agency liaisons, and Board support staff will participate in-person, following COVID–19 precautionary measures, at: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

Attendees should check the website listed below for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831; Phone (865) 241–3315; or E-mail:

Melyssa.Noe@orem.doe.gov. Or visit the website at *www.energy.gov/orssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Comments from the Alternate Deputy Designated Federal Officer
- Comments from DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency liaisons
- Presentation
- Public Comment Period
- Motions/Approval of February 8, 2023 Meeting Minutes
- Status of Outstanding Recommendations
- Subcommittee Reports

Public Participation: This meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board via email either before or after the meeting. Public comments received by no later than 5 p.m. ET on Wednesday, March 1, 2023, will be read aloud during the meeting.

Comments will be accepted after the meeting, by no later than 5 p.m. ET on Monday, March 13, 2023. Please submit comments to *orssab@orem.doe.gov.* Please put ''Public Comment'' in the subject line. Individuals who wish to make oral statements should contact Melyssa P. Noe at the email address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda.

The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit written public comments should email them as directed above. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by emailing or calling Melyssa P. Noe at the email address and telephone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on February 1, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–02457 Filed 2–3–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1819–035; ER10–1817–026; ER10–1818–033; ER10–1820–038.

Applicants: Northern States Power Company, a Wisconsin corporation, Public Service Company of Colorado, Southwestern Public Service Company, Northern States Power Company, a Minnesota corporation.

Description: Notice of Change in Status of Northern States Power Company, a Minnesota corporation, et al. under.

Filed Date: 1/27/23.

Accession Number: 20230127–5299.

Comment Date: 5 p.m. ET 2/17/23.

Docket Numbers: ER15–1905–012.

Applicants: AZ721 LLC.

Description: Notice of Change in Status of Amazon Energy LLC.

Filed Date: 1/30/23.

Accession Number: 20230130–5288.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER16–323–014.

Applicants: Ohio Valley Electric Corporation.

Description: Notice of Change in Status of Ohio Valley Electric Corporation.

Filed Date: 1/30/23.

Accession Number: 20230130–5289.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER17–2509–002; ER19–1992–002.

Applicants: RE Gaskell West 2 LLC, RE Gaskell West 3 LLC.

Description: Notice of Non-Material Change in Status of RE Gaskell West 3 LLC, et al.

Filed Date: 1/30/23.

Accession Number: 20230130–5291.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER19–2583–001.

Applicants: Green River Wind Farm Phase 1, LLC.

Description: Compliance filing: Notification of Non-Material CIS and Change in Category Seller Status to be effective 2/1/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5116.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER21–2215–001.

Applicants: Peoples Natural Gas.

Description: Notice of Change in Status of Peoples Natural Gas Company LLC.

Filed Date: 1/30/23.

Accession Number: 20230130–5292.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER22–1703–003.

Applicants: Salem Harbor Power Development LP.

Description: Notice of Change in Status of Salem Harbor Power Development LP.

Filed Date: 1/26/23.

Accession Number: 20230126–5191.

Comment Date: 5 p.m. ET 2/16/23.

Docket Numbers: ER22–2190–001; ER22–2191–001; ER22–2192–001; ER14–1594–005; ER14–1596–005; ER14–1934–006; ER14–1935–006; ER15–1020–004; ER20–245–003; ER20–242–003; ER13–1816–017; ER20–246–003.

Applicants: Windhub Solar A, LLC, Sustaining Power Solutions LLC, Sunshine Valley Solar, LLC, Sun Streams, LLC, Rising Tree Wind Farm III LLC, Rising Tree Wind Farm II LLC, Rising Tree Wind Farm LLC, Lone Valley Solar Park II LLC, Lone Valley Solar Park I LLC, EDPR Scarlet I LLC, EDPR CA Solar Park II LLC, EDPR CA Solar Park LLC.

Description: Amendment to June 28, 2022, Triennial Market Power Analysis for Southwest Region and Notice of Non-Material Change in Status of EDPR CA Solar Park LLC, et al.

Filed Date: 1/25/23.

Accession Number: 20230125–5179.

Comment Date: 5 p.m. ET 2/15/23.

Docket Numbers: ER23–52–002.

Applicants: Westlake Chemicals & Vinyls LLC.

Description: Notice of Change in Status of Westlake Chemicals & Vinyls LLC.

Filed Date: 1/30/23.

Accession Number: 20230130–5290.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–271–001.

Applicants: Arizona Public Service Company.

Description: Compliance filing: Supplement to WECC Soft Price Cap Justification Filing to be effective N/A.

Filed Date: 1/31/23.

Accession Number: 20230131–5169.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–597–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Report Filing: Supplement to filing 43 to be effective N/A.
Filed Date: 1/23/23.
Accession Number: 20230123–5070.
Comment Date: 5 p.m. ET 2/13/23.
Docket Numbers: ER23–976–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Q4 2022 Quarterly Filing of City and County of San Francisco's WDT SA (SA 275) to be effective 12/31/2022.
Filed Date: 1/30/23.
Accession Number: 20230130–5134.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–977–000.
Applicants: Manitowoc Public Utilities.
Description: Baseline eTariff Filing: Monthly SSR Payment for Lakefront No. 9 with MISO to be effective 2/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5137.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–978–000.
Applicants: Duke Energy Florida, LLC.
Description: § 205(d) Rate Filing: DEF–TECO RS No. 80 Amendment to be effective 4/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5148.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–980–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: ISO–NE/NEPOOL; ISO Board Candidate Age Limit Increase to be effective 4/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5169.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–982–000.
Applicants: CPV Three Rivers, LLC.
Description: Initial rate filing: Reactive Rates Filing to be effective 3/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5220.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–983–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–01–31_SA 3495 ITC-White Tail Solar 1st Rev GIA (J799) to be effective 1/19/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5018.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–984–000.
Applicants: Three Corners Solar, LLC.
Description: Compliance filing: Revisions to MBR Tariff to Update Category Seller Status in the Northeast Region to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5022.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–985–000.
Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Commonwealth Edison Company submits tariff filing per 35.13(a)(2)(iii): ComEd submits revisions to OATT, Attachment H–13 to be effective 12/20/2022.
Filed Date: 1/31/23.
Accession Number: 20230131–5023.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–986–000.
Applicants: Titan Solar 1, LLC.
Description: Compliance filing: Revisions to MBR Tariff to Update Category Seller Status in the Southwest Region to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5034.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–987–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment AE to Update Violation Relaxation Limits to be effective 12/31/9998.
Filed Date: 1/31/23.
Accession Number: 20230131–5047.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–988–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2142R5 Golden Spread Electric Cooperative, Inc. NITSA NOA to be effective 4/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5066.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–989–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: LGIA, Commerce Energy Storage 2 (TOT996/Q1766_SA No. 293) to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5068.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–990–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): SWE (Black Warrior) NITSA 2023 Rollover Filing to be effective 1/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5082.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–991–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): City of Evergreen NITSA Rollover Filing to be effective 1/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5085.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–992–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): SWE (Tombigbee) NITSA 2023 Rollover Filing to be effective 1/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5095.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–993–000.
Applicants: Bitter Ridge Wind Farm, LLC.
Description: Compliance filing: Revisions to MBR Tariff to Update Category Seller Status in the Northeast Region to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5124.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–994–000.
Applicants: Northern States Power Company, a Wisconsin corporation.
Description: § 205(d) Rate Filing: 2023–01–31 GRE SISA—Century 722–NSP to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5131.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–995–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA, Tule Hydropower WDT1794/SA1212 + Termination of Tule LA, SA1179 to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5136.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–996–000.
Applicants: LSP-Whitewater Limited Partnership.
Description: Tariff Amendment: MBR Cancellation to be effective 1/31/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5138.
Comment Date: 5 p.m. ET 2/21/23.
Docket Numbers: ER23–997–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–01–31_SA 3978 OTP-Bagley

Junction Capacitor MPFCA to be effective 4/2/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5168.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–998–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–01–31_SA 3983 OTP-Oliver Wind IV FSA to be effective 4/2/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5172.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–999–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–01–31_SA 3984 OTP-Northern Divide Wind FSA to be effective 4/2/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5173.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1000–000.

Applicants: ISO New England Inc., The Narragansett Electric Company.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): ISO–NE/The Narragansett Electric Company; Filing of TSA–NECO–83 to be effective 1/1/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5175.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1001–000.

Applicants: Persimmon Creek Wind Farm 1, LLC.

Description: Compliance filing: Notice of Non-Material Change in Status and Revised MBR Tariff to be effective 2/1/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5183.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1002–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 5068, Queue #AB1–081 (amend) to be effective 4/13/2018.

Filed Date: 1/31/23.

Accession Number: 20230131–5187.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1003–000.

Applicants: ISO New England Inc., The Narragansett Electric Company.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): ISO–NE/The Narragansett Electric Company; Filing of New LSA–TSA–NECO–86 to be effective 1/1/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5188.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1004–000.

Applicants: MD Solar 2, LLC.

Description: § 205(d) Rate Filing: Normal filing 2023 to be effective 2/1/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5199.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1005–000.

Applicants: Vitol PA Wind Marketing LLC.

Description: § 205(d) Rate Filing: Normal filing 2023 to be effective 2/1/2023.

Filed Date: 1/31/23.

Accession Number: 20230131–5204.

Comment Date: 5 p.m. ET 2/21/23.

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 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 31, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–02435 Filed 2–3–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

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[1] Meeting notes with the United States Fish and Wildlife Service.

Docket Nos.	File date	Presenter or requester
Prohibited:		
NONE.		
Exempt:		
1. CP22–44–000	1–19–2023	FERC Staff.[1]
2. CP17–458–000	1–23–2023	U.S. Representative Tom Cole.
3. P–1881–000	1–26–2023	U.S. Representative Lloyd Smucker.

Dated: January 31, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–02436 Filed 2–3–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2030–113]

Portland General Electric Company; Confederated Tribes of the Warm Springs Reservation of Oregon; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Revised Shoreline Management Plan (SMP).

b. *Project No:* 2030–113.

c. *Date Filed:* January 17, 2023, and supplemented on January 25, 2023.

d. *Applicant:* Portland General Electric Company and Confederated Tribes of the Warm Springs Reservation of Oregon.

e. *Name of Project:* Pelton Round Butte Hydroelectric Project.

f. *Location:* Deschutes River in Jefferson County, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Tony Dentel, (503) 630–8209.

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests: March 2, 2023.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2030–113. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* As a result of a required six-year review process, Portland General Electric Company and Confederated Tribes of the Warm Springs Reservation of Oregon filed a revised SMP that applies to Lake Billy Chinook and Lake Simtustus at the Pelton Round Butte Hydroelectric Project. The revised SMP, developed in consultation with the Shoreline Management Working Group, proposes to reorganize elements of the SMP, update definitions and references, eliminate some background information, and make several changes to shoreline policies related to permitting, design criteria, and enforcement for shoreline structures.

l. *Locations of the Application:* In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''elibrary'' link. Enter the docket number excluding the last three digits in the document field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3673 or TYY, (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: January 31, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–02409 Filed 2–3–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC23–3–000]

Commission Information Collection Activities (FERC–725M); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725M (Mandatory Reliability Standard: Transmission Vegetation Management), which will be submitted to the Office of Management and Budget (OMB) for review.

DATES: Comments on the collection of information are due March 8, 2023.

ADDRESSES: Send written comments on FERC–725M (identified by Docket No. IC23–3–000) to the Office of Management and Budget (OMB) through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number 1902–0263 (Mandatory Reliability Standard: Transmission Vegetation Management) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. IC23–3–000 and FERC–725M) to the Commission as noted below. Electronic filing through *https://www.ferc.gov* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:
  - *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Please reference the specific collection number(s) (FERC–725M) and/or title(s) (Gas Pipeline Rates: Refund Report Requirements) in your comments.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at: *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review field,'' select ''Federal Energy Regulatory Commission,'' click ''submit,'' and select ''comment'' to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725M (Mandatory Reliability Standard: Transmission Vegetation Management).

OMB Control No.: 1902–0263.

Type of Request: Three-year extension of the FERC–725M with no updates to the current reporting requirements.

Abstract: On September 19, 2013, the Commission issued Order No. 785, Docket No. RM12–16–000, a Final Rule [1] approving modifications to four existing Reliability Standards submitted by the North American Electric Reliability Corporation (NERC), the Commission certified Electric Reliability Organization. Specifically, the Commission approved Reliability Standards FAC–001–1 (Facility Connection Requirements), FAC–003–3 (Transmission Vegetation Management), PRC–004–2.1a (Analysis and Mitigation of Transmission and Generation Protection System Misoperations), and PRC–005–1.1b (Transmission and Generation Protection System Maintenance and Testing).[2] The modifications improved reliability either by extending applicability of the Reliability Standard to certain generator interconnection facilities, or by clarifying that the existing Reliability Standard is and remains applicable to generator interconnection facilities.

The currently effective reliability standard is FAC–003–4 (Transmission Vegetation Management). Reliability Standard FAC–003–4 includes the Minimum Vegetation Clearance Distances (MVCDs) which are based on additional testing regarding the appropriate gap factor to be used to calculate clearance distances for vegetation. NERC previously explained that Reliability Standard FAC–003–4 includes higher and more conservative MVCD values and, therefore, maintained that FAC–003–4 would ''enhance reliability and provide additional confidence by applying a more conservative approach to determining the vegetation clearing distances.''

On March 4, 2022, a Delegated Letter Order was issued, Docket No. RD22–2–000, approving FAC–003–5. The Reliability Standard FAC–003–5 set forth requirements to maintain a reliable electric transmission system by using a defense-in-depth strategy to manage vegetation located on transmission rights of way (ROW) and minimize encroachments from vegetation located adjacent to the ROW, thus preventing the risk of those vegetation-related outages that could lead to cascading. Specific to FAC–003–5, modifications were done to replace the Interconnection Reliability Operating Limit (IROL) with new language. The requirements in FAC–003–5 result in two years of one-time costs, which are reflected in the burden table below.

In FERC–725M we are renewing the information collection requirements that are currently in Reliability Standard FAC–003–4 but were not specified in RD22–2–000. Furthermore, we are adjusting the burden in FAC–003–4 to reflect the latest number of applicable entities based on the NERC Compliance Registry as of September 16, 2022.

Type of Respondents: Transmission Owner (TO); Generator Owner (GO); and Regional Entity (RE).

Estimate of Annual Burden.[3] The Commission estimates the annual public reporting burden and cost [4] for the information collection as:

[1] *Generator Requirements at the Transmission Interface,* 144 FERC ¶ 61,221 (2013).

[2] The burden included in information collection FERC–725M (in Docket No. RM12–16) corresponds to FAC–003–3 (Transmission Vegetation Management). The Final Rule RM12–16–000 modifications included in PRC–004–2.1a and PRC–005–1.1b, which are not a subject of the 725M information collection.

[3] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

[4] The estimated hourly cost (salary plus benefits) are based on the figures for May 2022 posted by the Bureau of Labor Statistics for the Utilities sector (available at *http://www.bls.gov/oes/current/naics2_22.htm*) and updated with benefits information (at

Continued

FERC–725M, MANDATORY RELIABILITY STANDARDS: GENERATOR REQUIREMENTS AT THE TRANSMISSION INTERFACE

	Number of respondents [5] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Currently Effective Standard: FAC–003–4 (Transmission Vegetation Management)						
Generator Owners, Regional Entities: Quarterly Reporting (Compliance 1.4).	[6] 116	4	464	0.25 hrs.; $18.50 ..	116 hrs.; $8,584.00	$74.00
Generator Owners: Annual Veg. inspect. Doc. (M6); Work Plan (M7); Evidence of Mgt. of Veg. (M1 & M2); Confirmed Veg. Condition (M4); & Corrective Action (M5).	110	1	110	2 hrs.; $148.00	220 hrs.; $16,280.00 ..	148.00
Generator Owners, Transmission Owners: Record Retention (Compliance 1.2).	437	1	437	1 hr.; $74.00	437 hrs.; $32,338.00 ..	74.00
Sub-Total for standards in FAC–003–4	.....	.....	1,011	.....	773 hrs.; $57,202.00 ..	.....
FERC–725M (Modifications from RD22–2–000) [7]						
One Time Estimate Years 1 and 2 [8]						
FAC–003–5	TO (325) GO (1068)	4 4	1,300 4,272	8 hrs.; $728 ..... 8 hrs.; $728	10,400 hrs.; $946,400 34,176 hrs.; $3,110,016.	....
Sub-Total for standards in FAC–003–5	.....	.....	5,572	.....	44,576 hrs.; $4,056,416.	.....
Average Annual Burden over 3 years (RM22–2 Modification).	.....	.....	1,857.33	.....	14,858.67 hrs.; $1,352,138.97.	.....
Total of 725M	.....	.....	2,868.33	.....	15,631.67 hrs.; $1,422,481.97.	.....

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: January 31, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–02412 Filed 2–3–23; 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: PR23–28–000.
Applicants: New Mexico Gas Company, Inc.
Description: § 284.123(g) Rate Filing: Amended Statement of Operating Conditions to be effective 1/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5239.
Comment Date: 5 p.m. ET 2/21/23.
284.123(g) Protest: 5 p.m. ET 3/31/23.

Docket Numbers: PR23–29–000.
Applicants: Wisconsin Power and Light Company.
Description: § 284.123(g) Rate Filing: WPL Statement of Operating Conditions Update 2023 to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5010.
Comment Date: 5 p.m. ET 2/21/23.
284.123(g) Protest: 5 p.m. ET 4/3/23.

Docket Numbers: PR23–30–000.
Applicants: NorthWestern Corporation.
Description: § 284.123 Rate Filing: Revised Transportation and Storage Rates (Annual Tax Tracker) to be effective 1/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5069.
Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: RP23–379–000.
Applicants: LA Storage, LLC.
Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreements 1.30.23 to be effective 2/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5184.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–380–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.

http://www.bls.gov/news.release/ecec.nr0.htm). The hourly estimates for salary plus benefits are:

—Manager (code 11–0000), $102.41.

—Information and Records Clerks (code 43–4199), $42.35.

—Electrical Engineer (code 17–2071), $77.02.

The average hourly burden cost for this collection is $73.93 [($102.41 + $42.35 + $77.02)/3 = $73.93)] and is rounded to $74.00 an hour.

[5] According to the NERC Compliance Registry as of September 16, 2022, there are 1,099 generator owners and 327 transmission owners registered in North America. We estimate that approximately 10 percent (or 110) of these generator owners have interconnection facilities that are applicable to the standard.

[6] The estimated number of respondents (116) includes 110 generator owners and 6 Regional Entities.

[7] RD22–2–000 and the related reliability standards in FAC–003–5 becomes effective 4/1/2023 and are one-time burdens for year 1 and 2. These modifications are currently under review at OMB. This renewal covers other information collection requirements in 725M that were not part of RD22–2–000.

[8] Commission staff estimated that the industry's skill set (wages and benefits) for RD22–2–000 is comparable to the Commission's skill set. The FERC 2022 average salary plus benefits for one FERC full-time equivalent (FTE) is $188,922 year (or $91 per hour [rounded]).

Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Feb 2023 to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5000.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–381–000.
Applicants: Aurora West LLC,KAAPA Partners Aurora, LLC.
Description: Joint Petition for Temporary Waiver of Capacity Release Regulations, et al. of Aurora West LLC, et al. under RP23–381.
Filed Date: 1/30/23.
Accession Number: 20230130–5277.
Comment Date: 5 p.m. ET 2/6/23.

Docket Numbers: RP23–382–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agmt Update (Conoco—Feb 23) to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5038.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–383–000.
Applicants: Transwestern Pipeline Company, LLC.
Description: Compliance filing: Alert Day Penalty Report on 1–31–2023 to be effective N/A.
Filed Date: 1/31/23.
Accession Number: 20230131–5040.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–384–000.
Applicants: Dauphin Island Gathering Partners.
Description: § 4(d) Rate Filing: Storm Surcharge 2023 to be effective 4/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5113.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–385–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: § 4(d) Rate Filing: ETNG Address Change Filing to be effective 8/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5127.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–386–000.
Applicants: Southeast Supply Header, LLC.
Description: § 4(d) Rate Filing: SESH Address Change Filing to be effective 8/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5130.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–387–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2023–01–31 Negotiated Rate Agreement to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5134.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–388–000.
Applicants: Saltville Gas Storage Company L.L.C.
Description: § 4(d) Rate Filing: SGSC Address Change Filing to be effective 8/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5135.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–389–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20230131 Negotiated Rate to be effective 2/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5137.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP23–390–000.
Applicants: Steckman Ridge, LP.
Description: § 4(d) Rate Filing: SR Address Change Filing to be effective 8/1/2023.
Filed Date: 1/31/23.
Accession Number: 20230131–5139.
Comment Date: 5 p.m. ET 2/13/23.

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.

Filings in Existing Proceedings

Docket Numbers: RP21–1188–005.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing: RP21–1001 and 1188 TETLP Settlement Compliance Filing to be effective 1/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5145.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP22–1155–000.
Applicants: Northwest Pipeline LLC.
Description: Refund Report: Report of Federal Income Tax Refunds to be effective N/A.
Filed Date: 1/31/23.
Accession Number: 20230131–5033.
Comment Date: 5 p.m. ET 2/13/23.

Docket Numbers: RP22–1222–002.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: Compliance filing: Settlement Compliance—Implementation of Other Tariff Provisions to be effective 4/1/2023.
Filed Date: 1/30/23.
Accession Number: 20230130–5094.
Comment Date: 5 p.m. ET 2/13/23.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 31, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–02434 Filed 2–3–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9685–037]

Ampersand Cranberry Lake Hydro, LLC; Notice of Application for Surrender of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for surrender of license.
b. *Project No:* P–9685–037.
c. *Date Filed:* December 7, 2022.
d. *Applicant:* Ampersand Cranberry Lake Hydro, LLC.
e. *Name of Project:* Cranberry Lake Hydroelectric Project.
f. *Location:* The project is located on Oswegatchie River, in St. Lawrence County, New York.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.
h. *Applicant Contact:* Mr. Sayad Moudachirou, Ampersand Cranberry Lake Hydro, LLC. 717 Atlantic Avenue Suite 1a, Boston, Massachusetts 02111, (617) 933–7206, *sayad@ampersandenergy.com.*
i. *FERC Contact:* Jon Cofrancesco, (202) 502–8951, *Jon.Cofrancesco@ferc.gov.*
j. *Deadline for filing comments, motions to intervene, and protests:* March 2, 2023.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–9685–037. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Ampersand Cranberry Lake Hydro (Ampersand) proposes surrendering its license for the non-operating project. The project dam and other project facilities are owned by the Oswegatchie River-Cranberry Regulating District (Regulating District), a local governmental entity. Ampersand lost its lease to the project, along with all rights and access to the project. Ampersand is not proposing any ground disturbing activities as part of the surrender. Ampersand proposes to adopt the Regulating District's plan to, at the Regulating District's own expense, remove the project's fuse plug spillway, complete all needed repairs of the dam, remove the generating and appurtenant equipment from the powerhouse, and secure the project site. If the Commission approves the surrender and the surrender becomes effective, Commission jurisdiction will end over the project and the project and dam will transition to the jurisdiction of New York State Department of Environmental Conservation.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: January 31, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–02415 Filed 2–3–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL—10619–01–OA]

Notification of Public Meeting of the Science Advisory Board BenMAP and Benefits Methods Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Science Advisory Board BenMAP and Benefits Methods Panel. The purpose of the meeting is to discuss responses to charge questions on EPA's new cloud-based BenMAP model from EPA's Office of Air and Radiation and its Technical Support Document (TSD): *Estimating $PM_{2.5}$ and Ozone-Attributable Health Benefits (January 2023).*

DATES: The public meeting of the SAB BenMAP and Benefits Methods Panel will be held on March 2, 2023, from 8:30 a.m. to 5:00 p.m. and on March 3, 2023, from 8:30 a.m. to 12:30 p.m. All Times are in Eastern Standard Time.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, located at 201 Harrison Oaks Boulevard in Cary, North Carolina 27513, 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. Holly Stallworth, Designated Federal Officer (DFO), via telephone (202) 564–2073, or email at *stallworth.holly@epa.gov*. General information about the SAB, as well as any updates concerning the meeting 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 BenMAP and Benefits Methods Panel will hold a public meeting to discuss charge questions related to the BenMAP model and TSD.

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 instructions below to submit comments.

Oral Statements: In general, individuals or groups requesting an oral presentation at a meeting will be limited to three 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 22, 2023, to be placed on the list of registered speakers.

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 22, 2023, for consideration at the March 2–3, 2023 meeting. Written statements should be supplied to the DFO at the contact information above. It is the SAB Staff Office general policy to post written comments on the web page for the meeting. Submitters are requested to provide an 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 Holly Stallworth, at 202.564.2073 or *stallworth.holly@epa.gov,* preferably at least ten days prior to the meeting, 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. 2023–02372 Filed 2–3–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0918; FR ID 125870]

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 April 7, 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: 3060–0918.

Title: CORES Update/Change Form, FCC Form 161.

Form Number: FCC Form 161.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Individuals or households; Not-for-profit institutions; and State, Local, or Tribal Governments.

Number of Respondents and Responses: 18,251 respondents; 18,251 responses.

Estimated Time per Response: 10 minutes (0.167 hours).

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in the *Debt Collection Act of 1996 (DCCA),* Public Law 104–134, Chapter 10, Section 31001.

Total Annual Burden: 3,048 hours.

Total Annual Costs: No Cost.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment (PIA) covering the PII in the CORES information system is being updated. Upon completion it will be posted at: *https://www.fcc.gov/general/privacy-act-information#pia.*

Nature and Extent of Confidentiality: The FCC is not requesting that respondents submit confidential information to the Commission. If the FCC requests that respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to Section 0.459 of the FCC's rules, 47 CFR 0.459. The FCC has a system of records, FCC/OMD–25, Financial Operations Information

System (FOIS), to cover the collection, purpose(s), storage, safeguards, and disposal of the personally identifiable information (PII) that individual respondents may submit on FCC Form 161, which is posted at: *https://www.fcc.gov/general/privacy-act-information#systems.*

Needs and Uses: After respondents have registered in CORES and have been issued a FCC Registration Number (FRN), they may use FCC Form 161 to update and/or change their contact information, including name, address, telephone number, email address(es), fax number, contact representative, contact representative's address, telephone number, email address, and/or fax number. Respondents may also update their registration information in CORES on-line at *https://apps.fcc.gov/cores.* The Commission uses this information to collect or report on any delinquent debt arising from the respondent's business dealings with the FCC, including both ''feeable'' and ''nonfeeable'' services; and to ensure that registrants (respondents) receive any refunds due. Use of the CORES System is also a means of ensuring that the Commission operates in compliance with the *Debt Collection Improvement Act of 1996.*

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–02359 Filed 2–3–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
10011	Columbian Bank & Trust Co	Topeka	KS	02/01/2023
10018	Alpha Bank & Trust	Alpharetta	GA	02/01/2023
10031	MagnetBank	Salt Lake City	UT	02/01/2023
10043	Security Savings Bank	Henderson	NV	02/01/2023
10104	Dwelling House Savings and Loan Association	Pittsburgh	PA	02/01/2023
10121	Irwin Union Bank, F.S.B	Louisville	KY	02/01/2023
10200	Advanta Bank Corp	Draper	UT	02/01/2023
10282	Los Padres Bank	Solvang	CA	02/01/2023
10343	Charter Oak Bank	Napa	CA	02/01/2023

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on February 1, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–02400 Filed 2–3–23; 8:45 am]

BILLING CODE P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, February 9, 2023 at 10:30 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12th Floor) and virtual.

Note: For those attending the meeting in person, current COVID–19 safety protocols for visitors, which are based on the CDC COVID–19 community level in Washington, DC, will be updated on the commission's contact page by the Monday before the meeting. See the contact page at *https://www.fec.gov/contact/.* If you would like to virtually access the meeting, see the instructions below.

STATUS: The February 9, 2023 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220.

Individuals who plan to attend in person and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Laura E. Sinram,

Secretary and Clerk of the Commission.

[FR Doc. 2023–02522 Filed 2–2–23; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the

Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 21, 2023.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201–2272. Comments can also be sent electronically to *Comments.applications@dal.frb.org:*

1. *John M. Moore, as trustee of the John M. Moore 2003 Exempt Family Trust, the Thomas Blake Moore 2021 Exempt Trust, the Hunter Marshall Moore 2021 Exempt Trust and as Managing Partner of JPM Interests Ltd., all of Wolfforth, Texas, and as co-trustee of the James Todd Moore Exempt Lifetime Trust, Dallas, Texas; Melissa Thoveson, as trustee of the Ryan Butler Thoveson 2021 Exempt Trust, the Alec Steele Thoveson 2021 Exempt Trust, the Melissa A. Thoveson 2003 Exempt Family Trust, and as co-trustee of the James Todd Moore Exempt Lifetime Trust, all of Dallas, Texas; and James Todd Moore, Dallas, Texas;* to become members of the Moore Family Group, a group acting in concert, to retain voting shares of Americo Bancshares, Inc., and indirectly retain voting shares of American Bank of Commerce, both of Wolfforth, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–02474 Filed 2–3–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 8, 2023.

A. Federal Reserve Bank of San Francisco (Joseph Cuenco, Assistant Vice President, Formations, Transactions and Enforcement) 101 Market Street, San Francisco, California.

1. *Carpenter Acquisition Corporation, Newport Beach, California;* to become a bank holding company by acquiring Icon Business Bank, Riverside, California.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *FSB Holdings, Inc., Auburn Hills, Michigan;* to become a bank holding company by acquiring Freeland State Bank, Freeland, Michigan.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–02438 Filed 2–3–23; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 192 3157]

LCA-Vision; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 8, 2023.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''LCA-Vision; File No. 192 3157'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex P), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Paul Spelman (202–326–2487), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 8, 2023. Write ''LCA-Vision; File No. 192 3157'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''LCA-Vision; File No. 192 3157'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex P), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your

comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before March 8, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order with LCA-Vision (''LCA''). The proposed consent order (''proposed order'') has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement, along with any comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the proposed order.

This matter involves LCA's advertising of the price of its LASIK surgery. The proposed complaint alleges that LCA's advertisements represented that LASIK was available for ''as low as'' or ''starting at'' $250 or $295. This price was per eye, although that was not always clearly disclosed. In truth, very few consumers qualified for the advertised price. For example, anyone with vision worse than 20/40 was considered ineligible. Consumers typically learned the actual price only after undergoing a 90-minute to two-hour consultation and sales pitch. The complaint also alleges that LCA's ads often failed to disclose adequately the prescriptions consumers needed to qualify for the price promotion, that few people were eligible, and that most people paid between $1,800 and $2,295 per eye. According to the proposed complaint, LCA's advertisements were false or misleading in violation of Sections 5(a) and 12 of the FTC Act, and harmed consumers by, among other things, wasting their time by luring them into sitting for a lengthy consultation under false or deceptive pretenses.

The proposed order prohibits LCA from engaging in the alleged deceptive conduct in the future. Section I prohibits LCA from misrepresenting the price of LASIK or any material restrictions, limitations, or conditions that affect the price of LASIK. Section II requires LCA to make certain clear and conspicuous disclosures when advertising LASIK for a price or discount for which a majority of consumers—either nationwide or in the geographic area where specific LCA ads are disseminated (*e.g.,* the Cincinnati metropolitan area, the state of Ohio)—likely would not qualify.

Sections III and IV require LCA to pay to the Commission $1,250,000 for consumer redress and describes the procedures and legal rights related to that payment. Section V requires LCA to provide customer information to enable the Commission to administer such redress. Sections VI through IX are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring LCA to provide information or documents necessary for the Commission to monitor compliance with the proposed order. Section X states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission, Commissioner Wilson dissenting.

April J. Tabor,

Secretary.

Dissenting Statement of Commissioner Christine S. Wilson

Today the Commission announces a complaint and proposed consent against LCA-Vision (also d/b/a LasikPlus and Joffe MediCenter). The complaint alleges that LCA-Vision engaged in deceptive representations, in violation of Section 5 of the FTC Act, in connection with promotional pricing claims for its LASIK surgery. Specifically, the complaint alleges that LCA-Vision advertised LASIK at a promotional price of $250, $250 per eye, or $295 (Joffe MediCenter) but that the advertisements failed to disclose, or failed to disclose adequately, the requirements consumers must meet to be eligible for the price promotions (Complaint Para. 8). The advertisements included disclaimers, but the complaint alleges that the disclaimers were not clear and conspicuous and did not provide sufficient information for consumers to understand the eligibility requirements. (*See, e.g.* Complaint Paras. 16–18).

The complaint further explains that LCA-Vision requires each potential patient to visit a center and undergo multiple eye exams during their consultation, including refraction, full pupil dilation, and a corneal topographical exam (Complaint Para. 25). After these examinations are complete, the potential patient learns whether they qualify for LASIK surgery and if they qualify for the promotional price. *Id.* The complaint asserts that the vast majority of consumers learn they do not qualify for the promotional price (Complaint Para. 27) and implies that LCA-Vision should have informed

consumers in its advertising of the types of prescriptions that do not qualify, enabling ineligible consumers to avoid the wasted time and expense of traveling to a center and obtaining a consultation. (Complaint Para. 36).

Notably, though, the complaint explains that ''[e]ligibility for vision correction surgery depends upon various factors, including a patient's prescription level, the thickness of the cornea, the size of the pupil, and the stability of the prescription.'' (Complaint Para. 7.) In addition, the complaint notes that ''Respondent sets surgery price guidelines and parameters, including which prescriptions are eligible for certain pricing, but generally leave decisions as to a patient's eligibility for LASIK surgery, and the appropriate type of surgery and laser, to the judgment of its surgeons and optometrists.'' (Complaint Para. 7.) The company's centers use two types of laser surgery and the complaint states that the decision of which type to use to correct a patient's eyesight is left to the surgeon. (Complaint Paras. 6–7.)

It has been said that medicine is as much an art as a science.[1] Even as described in the complaint, eligibility for the surgery—and, as a secondary matter, pricing for those who are good LASIK candidates—present complicated and nuanced questions whose answers depend on the outcome of the eye examination and the judgement of the attending surgeon. There are no clear rules about who does and does not qualify for the two types of LASIK surgery offered at LCA-Vision centers. I believe there could be instances in which patients facially may appear to qualify for the price but, after thorough examination, are found not to qualify because of medical conditions or complications identified during consultation. I also believe there could be instances in which some patients who at first blush may appear to be ineligible in fact end up qualifying for the promotional pricing following consultation due to the discretion the attending surgeon enjoys.

Moreover, I believe the free eye exam provides significant value to the potential patient. Even consumers who do not qualify for promotional pricing learn detailed information about their vision, prescription, and eligibility for LASIK. As a result of this examination, LASIK candidates could learn that their prescriptions have changed, or that they show signs of glaucoma or other eye health issues that might require medical intervention. While the attractive prices advertised by LCA-Vision may have encouraged consumers to schedule consultations, I do not agree that this battery of comprehensive medical exams constitutes a waste of time. To the contrary, I believe that these free, comprehensive exams provide significant value to consumers, and that this value likely outweighs any potential injury that may have resulted from the allegedly deceptive advertising.

Thus, I am not convinced that the claims here constitute deceptive claims in violation of the FTC Act. LCA-Vision offered a price that is available to some consumers and did disclose that there were eligibility requirements. I agree that the disclosures noting eligibility requirements and the need for an examination to determine if one qualifies could have been presented more clearly in LCA-Vision's advertising. But I am concerned that requiring the inclusion of specific medical parameters in advertisements, when those parameters could be either over- or under-inclusive depending upon the results of the consultation, could be more confusing than helpful.

For these reasons, I dissent.

[FR Doc. 2023–02375 Filed 2–3–23; 8:45 am]

BILLING CODE 6750–01–P

[1] Joseph Herman, Medicine: the science and the art, 27 J. Med. Ethics: Medical Humanities 42 (2001) (discussing that ''[m]edicine has been said to be both a science and an art'' and describing scientific and artistic writings that demonstrate this point), available at: *https://mh.bmj.com/content/27/1/42.*

FEDERAL TRADE COMMISSION

[Docket No. 9407]

HomeAdvisor, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 8, 2023.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''HomeAdvisor, Inc.; Docket No. 9407'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex P), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sophia Calderón (206–220–4486), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 8, 2023. Write ''HomeAdvisor, Inc.; Docket No. 9407'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''HomeAdvisor, Inc.; Docket No. 9407'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex P), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social

Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before March 8, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy*.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from HomeAdvisor, Inc. (''HomeAdvisor''). The proposed consent order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves HomeAdvisor's advertising and sale of its membership and leads products to home service providers. Count I of the complaint alleges HomeAdvisor violated section 5(a) of the FTC Act by disseminating advertisements and marketing that misrepresent that HomeAdvisor's leads: (1) concern individuals who intend to hire service providers soon, (2) will match the types and locations of work selected by service providers, and (3) concern individuals who intentionally sought out HomeAdvisor's assistance in finding a service provider. Count II of the complaint alleges that HomeAdvisor disseminated false and unsubstantiated advertisements and marketing concerning the rate at which HomeAdvisor's leads convert into paying jobs. Count III of the complaint alleges that HomeAdvisor misrepresented that the first month of its mHelpDesk add-on subscription was free.

The proposed consent order includes injunctive relief that addresses these alleged violations and contains provisions designed to prevent HomeAdvisor from engaging in similar acts and practices in the future. The proposed consent order also requires HomeAdvisor to pay up to $7,200,000 to the Commission to be used for consumer redress. Provision I prohibits HomeAdvisor from making false and/or unsubstantiated representations regarding its products. Provision I.A prohibits HomeAdvisor from misrepresenting central characteristics of its leads, including that the leads concern individuals who intend to hire service providers soon, that they concern projects that will match service providers' stated task type and location preferences, and that they concern individuals who submitted a request concerning home services directly to HomeAdvisor. Provision I.A also prohibits HomeAdvisor from misrepresenting products as free. Provision I.B prohibits HomeAdvisor from making any representation regarding the rate at which HomeAdvisor's leads convert into paying jobs unless that representation is non-misleading and supported by data or written materials in HomeAdvisor's possession when the claim is made.

Provision II requires HomeAdvisor to pay up to $7,200,000 to the Commission for purpose of consumer redress, with an initial payment of $4,448,000. Provision III provides for a redress program that would administer two redress funds. The first fund would make payments of up to $30 to service providers identified as affected by the practices at issue in Counts I and II of the complaint. The second fund would make payments of up to $59.99 to service providers identified as affected by the practices at issue in Count III of the complaint and who submit a claim for payment. The Commission or its designee will administer the redress programs, with expenses to be paid from the redress funds. Provision IV contains language necessary to aid in the enforceability by the Commission of any debt accruing pursuant to this proposed order, including, but not limited to, in any subsequent bankruptcy litigation. Provision V requires HomeAdvisor to provide the Commission with customer information necessary to administer the redress program.

Provisions VI through IX of the proposed order relate to compliance reporting and monitoring. Provision VI is an order acknowledgment and distribution provision requiring HomeAdvisor to acknowledge the order, to provide the order to current and future owners, managers, business partners, certain employees, and to obtain an acknowledgement from each such person that they received a copy of the order. Provision VII requires HomeAdvisor to submit a compliance report ninety days after the order is entered, and to promptly notify the Commission of corporate changes that may affect compliance obligations. Provision VIII requires HomeAdvisor to maintain, and upon request make available, certain compliance-related records. Provision IX requires HomeAdvisor to provide additional information or compliance reports, as requested. Provision X states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023–02383 Filed 2–3–23; 8:45 am]

BILLING CODE 6750–01–P

UNITED STATES AGENCY FOR GLOBAL MEDIA

USAGM Performance Review Board Members

AGENCY: United States Agency for Global Media.

ACTION: Notice.

SUMMARY: The United States Agency for Global Media (USAGM) announces the members of its SES Performance Review Board (PRB).

ADDRESSES: USAGM Office of Human Resources, 330 Independence Ave. SW, Washington, DC 20237.

FOR FURTHER INFORMATION CONTACT: Ellona Fritschie, Senior Advisor, at *efritschie@usagm.gov* or (202) 382–7500.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314, USAGM publishes this notice announcing the individuals who will serve as members of the PRB for a term of one year. The PRB is responsible for: (1) reviewing performance appraisals and ratings of Senior Executive Service and Senior Level members; and (2) making recommendations on other performance management issues, such as pay adjustments, bonuses, and Presidential Rank Awards. The names, position titles, and appointment types of each member of the PRB are set forth below:

1. Yolanda Lopez, Voice of America Director, Limited Term SES
2. Grant Turner, Chief Financial Officer, Career SES
3. James Reeves, Chief Information Officer, Career SES

Dated: January 9, 2023.

Armanda Matthews,

Program Support Specialist, U.S. Agency for Global Media.

[FR Doc. 2023–02396 Filed 2–3–23; 8:45 am]

BILLING CODE 8610–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–23–1027; Docket No. CDC–2023–0008]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. This Generic Clearance is designed to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

DATES: CDC must receive written comments on or before April 7, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0008 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control No. 0920–1027, Exp. 8/31/2023)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a three-year Extension for the data collection titled Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control No. 0920–1027). During the past three-year approval period, eight GenICs consisting of 750 responses have been submitted for approval. The collections included web-

based surveys, focus groups, and assessments. The information collection activities conducted under this extension will continue to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between CDC and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

This type of Generic Clearance for qualitative information will not be used for quantitative purposes that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: (1) the target population to which generalizations will be made; (2) the sampling frame; (3) the sample design (including stratification and clustering); (4) the precision requirements or power calculations that justify the proposed sample size; (5) the expected response rate; (6) the methods for assessing potential non-response bias; (7) the protocols for data collection; and (8) any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other Generic mechanisms that are designed to yield quantitative results.

Respondents will be screened and selected from Individuals and Households, Businesses, Organizations, and/or State, Local or Tribal Government(s). The estimated annualized burden hours for this data collection activity are 9,690. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Type of collection	Number of respondents	Number of responses	Burden per response	Total burden
Individuals and Households, Businesses, Organizations, and/or State, Local or Tribal Government(s).	Online surveys	10,500	1	30/60	5,250
	Discussion Groups	280	1	2	560
	Focus groups	640	1	2	1,280
	Website/app usability testing.	2,000	1	30/60	1,000
	Interviews	800	1	2	1,600
Total					9,690

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–02422 Filed 2–3–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–23–0215]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Application Form and Related Forms for the Operation of the National Death Index (NDI)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 16, 2022 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Application Form and Related Forms for the Operation of the National Death Index (NDI) (OMB Control No. 0920–

0215, Exp. 3/31/2023)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The National Death Index (NDI) is a database containing identifying death record information submitted annually to NCHS by all the jurisdiction (states and territories) vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the jurisdictions and dates of death, and the death certificate numbers of deceased study subjects. Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the jurisdictions. The NDI Plus option currently provides the International Classification of Disease (ICD) codes for the underlying and multiple causes of death for the years 1979–2021. Health researchers must complete administrative forms in order to apply for NDI services and submit records of study subjects for computer matching against the NDI file.

A three-year revision request is submitted to continue the use of the two administrative forms (the application form and transmittal form) utilized in the operation of the National Death Index (NDI) program, along with worksheets used to calculate related fees. These forms are submitted by NDI users when applying for use of the NDI and when actually using the service. In addition, this request includes the electronic versions that replace the three paper documents, one of which will include a minor reduction in the number of data collection items.

The total estimated annual burden hours are 1,276. This represents an increase of 489 hours from 787, due primarily to the increase in applications, and transmittal forms. There is no cost to respondents except for their time.

ESTIMATES OF ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Researcher	Application Form—Electronic	282	1	150/60
Researcher	Transmittal Form—Paper/Electronic	400	3	18/60
Researcher	Early Transmittal Form—Paper/Electronic	100	3	18/60
Researcher	Fee Worksheet	450	1	15/60
Researcher	Early Release Fee Worksheet	100	1	5/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–02421 Filed 2–3–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—DP23–002, Improving Health Outcomes for Patients With Inflammatory Bowel Disease; Amended Notice of Closed Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—DP23–002, Improving Health Outcomes for Patients with Inflammatory Bowel Disease; March 8, 2023, 11:00 a.m.–3:00 p.m., EST, Teleconference, in the original FRN. The meeting was published in the **Federal Register** on December 9, 2022, Volume 87, Number 236, page 75632.

The meeting is being amended to change the meeting time and should read as follows:

Date: March 8, 2023.

Time: 10:00 a.m.–3:00 p.m., EST.

The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Catherine Barrett, Ph.D., Scientific Review Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, Mailstop S107–3, Atlanta, Georgia 30341–3717; Telephone: (404) 718–7664; Email: *CBarrett@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–02476 Filed 2–3–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–23–22HK]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Surveillance of HIV-related service barriers among Individuals with Early or Late HIV Diagnoses (SHIELD)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on July 22, 2022, to obtain comments from the public and affected agencies. CDC received no comments to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Surveillance of HIV-related service barriers among Individuals with Early or Late HIV Diagnoses (SHIELD)—New—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

National HIV Surveillance System (NHSS) data indicate that 36,940 adolescents and adults received an HIV diagnosis in the United States and dependent areas in 2019. During 2015–2019, the overall rate of annual diagnoses decreased only slightly, from 12.4 to 11.1 per 100,000. Although not every jurisdiction reports complete laboratory data needed to identify the stage of infection, data from the majority of jurisdictions show that many of these cases were classified as Stage 0 (6.9%) or Stage 3 (21.5%) infection (*i.e.,* cases diagnosed in early infection or late infection, respectively). Early and late diagnoses represent recent failures in prevention and testing systems, respectively, and opportunities to understand needed improvements in these systems.

The NHSS would classify HIV infections as Stage 0 if the first positive HIV test were within six months of a negative HIV test. Persons who received a diagnosis at Stage 0 (*i.e.,* early diagnosis) could access HIV testing shortly after infection yet could not benefit from biomedical and behavioral interventions to prevent HIV infection.

The federal Ending the HIV Epidemic in the U.S. (EHE) initiative prioritizes the provision of HIV preexposure prophylaxis (PrEP), syringe services programs, treatment as prevention efforts, and other proven interventions—as part of the Prevent pillar of the EHE initiative—to prevent new HIV infections.

HIV infections are classified as Stage 3 (AIDS) by the presence of an AIDS-defining opportunistic infection or by the lowest CD4 lymphocyte test result. Persons with Stage 3 infection at the time of their initial HIV diagnosis (*i.e.,* late diagnosis) did not benefit from timely receipt of testing or HIV prevention interventions. They were likely unaware of their infection for a substantial length of time.

Nationally, an estimated 13.3% of persons with HIV are unaware of their infection, contributing to an estimated 40% of all ongoing transmission. Increasing early diagnosis is a crucial pillar of efforts to end HIV in the United States.

Given the continued occurrence of HIV infections in the United States, the barriers and gaps associated with low uptake of HIV testing and prevention services must be addressed to reduce new infections and facilitate timely diagnosis and treatment. Individual- and systems-level factors likely contribute to barriers and gaps in testing and prevention. Therefore, CDC is sponsoring this data collection to improve understanding of barriers and gaps associated with new infection and late diagnosis in the era of multiple testing modalities and prevention options such as PrEP. These enhanced surveillance activities will identify actionable missed opportunities for early diagnosis and prevention, thus informing allocation of resources, development and prioritization of interventions, and evidence-based local and national decisions to improve HIV testing and address prevention gaps.

CDC requests OMB approval for an estimated 2,916 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Potential Eligible Participant	Recruitment Script English	2,000	1	15/60
Potential Eligible Participant	Recruitment Script Spanish	500	1	15/60
Eligible Participant	Consent—English	2,000	1	5/60
Eligible Participant	Consent—Spanish	500	1	5/60
Eligible Participant	Survey—English	2,000	1	50/60
Eligible Participant	Survey—Spanish	500	1	50/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–02420 Filed 2–3–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–10825]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *March 8, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* List of Screening Instruments for Housing Stability, Food Security, and Transportation Questions on Health Risk Assessments; *Use:* This information collection request is for the new regulation at 42 CFR 422.101(f)(1)(i) requiring that all MA SNP health risk assessments (HRAs) include at least one question from a list of screening instruments specified by CMS in sub-regulatory guidance on each of three domains (housing stability, food security, and access to transportation) beginning in CY 2024. This new requirement will help better identify the risk factors that may inhibit enrollees from accessing care and achieving optimal health outcomes and independence and enable MA SNPs to take these risk factors into account in enrollee individualized care plans. This information collection request provides the list of CMS-specified Social Determinants of Health (SDOH) screening instruments available for SNPs to meet the new requirement.

We note that the scope of the information collection currently approved under OMB control number 0938–1422 (CMS–10799) listed in the January 2022 proposed rule was too broad to include a discussion of the new regulation at 42 CFR 422.101(f)(1)(i) and the information collection requirements contained therein. Also, we did not finalize our proposal to require SNPs to use a standardized set of questions based on comments received from on the January 2022 proposed rule titled ''Medicare Program; Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs'' (87 FR 1842). Therefore, in accordance with the implementing regulations of the PRA at 5 CFR 1320, we did not include this information collection in OMB control number 0938–1422 (CMS–10799) and are conducting a standard PRA clearance process to obtain public comment on the list of SDOH screening instruments described in the May 2022 final rule.

CMS received eight comments from eight different organizations. CMS has included responses to these comments as well as a crosswalk of the changes that CMS has made to its guidance document as a result of the comments received. In response to these comments, we made two minor revisions to our guidance document to clarify circumstances in which SNPs may use a state-required screening instrument as well as to encourage states with non-standardized state-specific screening instruments to begin the process of creating health IT coding for them. *Form Number:* CMS–10731 (OMB control number: 0938-New); *Frequency:* Occasionally; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 174; *Total Annual Responses:* 174; *Total Annual Hours:* 167. (For policy questions regarding this collection contact Michelle Conway at 202–260–7752.)

Dated: January 31, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–02369 Filed 2–3–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–E–1972]

Determination of Regulatory Review Period for Purposes of Patent Extension; OLUMIANT

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for OLUMIANT and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by April 7, 2023. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 7, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 7, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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–2019–E–1972 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; OLUMIANT.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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 § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, OLUMIANT (baricitinib). OLUMIANT is indicated for treatment of adult patients with

moderately to severely active rheumatoid arthritis who have had an inadequate response to one or more tumor necrosis factor antagonist therapies. Subsequent to this approval, the USPTO received a patent term restoration application for OLUMIANT (U.S. Patent No. 8,158,616) from Eli Lilly and Co., and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated June 21, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of OLUMIANT represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for OLUMIANT is 3,649 days. Of this time, 2,781 days occurred during the testing phase of the regulatory review period, while 868 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* June 5, 2008. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on June 5, 2008.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* January 15, 2016. FDA has verified the applicant's claim that the new drug application (NDA) for OLUMIANT (NDA 207924) was initially submitted on January 15, 2016.

3. *The date the application was approved:* May 31, 2018. FDA has verified the applicant's claim that NDA 207924 was approved on May 31, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 723 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02441 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos.: FDA–2018–E–4325; FDA–2018–E–3187; FDA–2018–E–3186; FDA–2018–E–3185; and FDA–2018–E–3184]

Determination of Regulatory Review Period for Purposes of Patent Extension; XIIDRA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for XIIDRA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by April 7, 2023. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 7, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 7, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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 Nos.: FDA–2018–E–4325; FDA–2018–E–3187;

FDA–2018–E–3186; FDA–2018–E–3185; and FDA–2018–E–3184 for Determination of Regulatory Review Period for Purposes of Patent Extension; XIIDRA. Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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 § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT:

Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, XIIDRA (lifitegrast) indicated for treatment of the signs and symptoms of dry eye disease. Subsequent to this approval, the USPTO received patent term restoration applications for XIIDRA (U.S. Patent Nos.: 7,314,938; 7,790,743; 8,084,047; 8,168,655; 8,592,450) from SARcode Bioscience Inc. and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated May 13, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of XIIDRA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for XIIDRA is 2,883 days. Of this time, 2,380 days occurred during the testing phase of the regulatory review period, while 503 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* August 21, 2008. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on August 21, 2008.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* February 25, 2015. FDA has verified the applicant's claim that the new drug application (NDA) for XIIDRA (NDA 208073) was initially submitted on February 25, 2015.

3. *The date the application was approved:* July 11, 2016. FDA has verified the applicant's claim that NDA 208073 was approved on July 11, 2016.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 1,693 days, 1,319 days, 1,081 days, 1,018 days or 731 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comment and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket

No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02452 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0119]

Fiscal Year 2023 Generic Drug Science and Research Initiatives Workshop; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''FY 2023 Generic Drug Science and Research Initiatives Workshop.'' The purpose of the public workshop is to provide an overview of the status of science and research initiatives for generic drugs and an opportunity for public input on these initiatives. FDA is seeking this input from a variety of stakeholders—industry, academia, patient advocates, professional societies, and other interested parties—as it fulfills its commitment under the Generic Drug User Fee Amendments of 2022 (GDUFA III) to develop an annual list of science and research initiatives specific to generic drugs. FDA will take the information it obtains from the public workshop into account in developing its Fiscal Year (FY) 2024 Generic Drug User Fee Amendments (GDUFA) science and research initiatives.

DATES: The public workshop will be held on May 11, 2023 from 8 a.m. to 4:30 p.m., and May 12, 2023, from 9 a.m. to 2:30 p.m. Eastern Time. Submit either electronic or written comments on this public workshop by June 12, 2023. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held in person and will be accessible virtually. Registrants will have an opportunity to indicate their interest in attending the public workshop in person. If there are restrictions imposed by applicable health guidelines for in-person gatherings, or seating capacity limitations, registrants interested in attending the public workshop in person will be contacted. The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503, sections B, and C), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Bldg. 1, where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/about-fda/visitor-information.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 12, 2023. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 12, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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. for ''FY 2023 Generic Drug Science and Research Initiatives Workshop; Public Workshop; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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.

FOR FURTHER INFORMATION CONTACT: Sam Raney, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4732, Silver Spring, MD 20993, 240–402–7967, *Sameersingh.Raney@fda.hhs.gov;* or Robert Lionberger, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4722, Silver Spring, MD 20993, 240–402–7957, *Robert.Lionberger@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2012, Congress passed the Generic Drug User Fee Amendments of 2012 (GDUFA I) (Pub. L. 112–144). GDUFA I was designed to enhance public access to safe, high-quality generic drugs and to modernize the generic drug program. To support this goal, FDA agreed in the Generic Drug User Fee Act Program Performance Goals and Procedures (GDUFA I commitment letter) to work with industry and interested stakeholders on identifying science and research initiatives specific to generic drugs for each fiscal year covered by GDUFA I.

In August 2017, GDUFA was reauthorized until September 2022 through the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Pub. L. 115–52), and in September 2022, GDUFA was reauthorized until September 2027 through the Generic Drug User Fee Amendments of 2022 (GDUFA III) (Pub. L. 117–180, 136 Stat. 2155). In the GDUFA Reauthorization Performance Goals and Program Enhancements Fiscal Years 2023–2027 (GDUFA III commitment letter),[1] FDA agreed to conduct annual public workshops ''to solicit input from industry and stakeholders for inclusion in an annual list of GDUFA III regulatory science initiatives.'' This public workshop scheduled for May 11, 2023, and May 12, 2023, seeks to fulfill this agreement.

II. Topics for Discussion at the Public Workshop

The purpose of this public workshop is to obtain input from industry and other interested stakeholders on identifying generic drug science and research initiatives for FY 2024. FDA is interested in receiving input about regulatory science initiatives for the ongoing years of the GDUFA III science and research program, and particularly for FY 2024.

Topics discussed during the workshop will likely include challenges and considerations for oral, parenteral, and other generic products, including complex products. Specific presentations and discussions at this workshop will be announced at a later date and may differ from the topics above. However, input about the topics above will help the Agency identify and expand its scientific focus for the next fiscal year.

FDA will consider all comments made at this workshop or received through the docket (see **ADDRESSES**) as it develops its FY 2024 science and research initiatives. Information concerning the science and research initiatives for generic drugs can be found on the Science & Research website at *https://www.fda.gov/drugs/generic-drugs/science-research.*

III. Participating in the Public Workshop

Registration: Registration is free. Persons interested in attending this public workshop must register online at *https://fda.zoomgov.com/webinar/register/WN_J3MsCbCWQwyuA1AojKF_8Q.* Registration may be performed at any time before or during the workshop.

Requests for Oral Presentations: During online registration you may indicate if you wish to present your public comments. Requests to provide public comments via a pre-recorded presentation or a live presentation, including in-person or virtual presentations, should be submitted by 11:59 p.m. Eastern Time at the end of March 31, 2023. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the workshop. Based upon the public comment presentation requests received by March 31, 2023, at 11:59 p.m. Eastern Time, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin; we will select and notify participants by April 11, 2023. If selected for presentation, any presentation materials must be emailed to *GDUFARegulatoryScience@fda.hhs.gov* no later than May 1, 2023, 11:59 p.m. Eastern Time. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will be webcast. Please register online (as described above) to attend the workshop remotely (virtually). Registrants will receive a hyperlink that provides access to the webcast on both days.

FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov* or on the Science & Research FDA website accessible at *https://www.fda.gov/drugs/generic-drugs/science-research.* It may also be viewed at the Dockets Management Staff (see **ADDRESSES**).

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02453 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

[1] The GDUFA III commitment letter is available at *https://www.fda.gov/media/153631/download.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0218]

Determination That TRIAMCINOLONE ACETONIDE (Triamcinolone Acetonide) Topical Cream, 0.025% and 0.1%, and Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 301–796–8363, *Stacy.Kane@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved; and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table are no longer being marketed.

Application No.	Drug name	Active ingredient(s)	Strength(s)	Dosage form/route	Applicant
NDA 011601	TRIAMCINOLONE ACETONIDE.	Triamcinolone Acetonide.	0.025%; 0.1%	Cream; Topical	Mylan.
NDA 012575	ACTIFED W/CODEINE	Codeine Phosphate; Pseudoephedrine Hydrochloride; Triprolidine Hydrochloride.	10 Milligrams (mg)/5 Milliliters (mL); 30 mg5 mL; 1.25 mg/5 mL.	Syrup; Oral	GlaxoSmithKline.
NDA 016267	DESFERAL	Deferoxamine Mesylate	2 Grams (g)/Vial	Injectable; Injection	Novartis.
NDA 017922	DDAVP (NEEDS NO REFRIGERATION).	Desmopressin Acetate	0.01 mg/Spray	Spray, Metered; Nasal	Ferring Pharms., Inc.
NDA 018279	K–TAB	Potassium Chloride	8 Milliequivalents	Tablet, Extended Release; Oral.	Abbvie.
NDA 018830	TAMBOCOR	Flecainide Acetate	200 mg	Tablet; Oral	Alvogen.
NDA 018983	COLYTE	Polyethylene Glycol 3350; Potassium Chloride; Sodium Bicarbonate; Sodium Chloride; Sodium Sulfate Anhydrous.	227.1 g/Packet, 2.82 g/Packet, 6.36 g/Packet, 5.53 g/Packet, 21.5 g/Packet; 120 g/Packet, 1.49 g/Packet, 3.36 g/Packet, 2.92g/Packet, 11.36g/Packet; 360 g/Packet, 4.47 g/Packet, 10.08 g/Packet, 8.76 g/Packet, 34.08 g/Packet; 240 g/Bottle, 2.98 g/Bottle, 6.72g/Bottle, 5.84 g/Bottle, 22.72 g/Bottle; 227.1 g/Bottle, 2.82 g/Bottle, 6.36g/Bottle, 5.53 g/Bottle, 21.5g/Bottle;. 227.1 g/Bottle, 2.82 g/Bottle, 6.36 g/Bottle, 5.53 g/Bottle, 21.5 g/Bottle; 240 g/Bottle, 2.98 g/Bottle, 6.72 g/Bottle, 5.84 g/Bottle, 22.72 g/Bottle.	For Solution; Oral	Mylan Specialty, L.P.
NDA 019641	TERAZOL 3	Terconazole	80 mg	Suppository; Vaginal	Janssen Pharms.
NDA 019821	SORIATANE	Acitretin	10 mg; 17.5 mg; 22.5 mg; 25 mg.	Capsule; Oral	Stiefel Labs, Inc.
NDA 019898	PRAVACHOL	Pravastatin Sodium	20 mg; 40 mg; 80 mg	Tablet; Oral	Bristol Myers Squibb Co.
NDA 019963	RENOVA	Tretinoin	0.05%	Cream; Topical	Valeant.
NDA 020103	ZOFRAN	Ondansetron Hydrochloride.	Equivalent to (EQ) 4 mg Base; EQ 8 mg Base; EQ 24 mg Base.	Tablet; Oral	Novartis.
NDA 020114	ASTELIN	Azelastine Hydrochloride.	0.137 mg/Spray	Spray, Metered; Nasal	Mylan Specialty.

Application No.	Drug name	Active ingredient(s)	Strength(s)	Dosage form/route	Applicant
NDA 020130	ESTROSTEP FE	Ethinyl Estradiol; Norethindrone Acetate.	0.02 mg, 0.03 mg, 0.035 mg; 1 mg, 1 mg, 1 mg.	Tablet; Oral-28	Apil.
NDA 020279	DERMATOP E EMOLLIENT.	Prednicarbate	0.1%	Cream; Topical	Valeant Bermuda.
NDA 020408	TRUSOPT	Dorzolamide Hydrochloride.	EQ 2% Base	Solution/Drops; Ophthalmic.	Merck.
NDA 020658	REQUIP	Ropinirole Hydrochloride.	EQ 0.25 mg Base; EQ 0.5 mg Base; EQ 1; EQ 2 mg Base; EQ 3 mg Base; EQ 4 mg Base; EQ 5 mg Base.	Tablet; Oral	GlaxoSmithKline.
NDA 020667	MIRAPEX	Pramipexole Dihydrochloride.	0.125 mg; 0.25 mg; 0.5 mg; 0.75 mg; 1 mg; 1.5 mg.	Tablet; Oral	Boehringer Ingelheim.
NDA 020793	CAFCIT	Caffeine Citrate	EQ 30 mg Base/3 mL	Solution; Oral	Hikma.
NDA 021076	ALEVE–D SINUS & COLD.	Naproxen Sodium; Pseudoephedrine Hydrochloride.	220 mg, 120 mg	Tablet, Extended Release; Oral.	Bayer.
NDA 021158	FACTIVE	Gemifloxacin Mesylate	EQ 320 mg Base	Tablet; Oral	LG Chem. Ltd.
NDA 021513	ENABLEX	Darifenacin Hydrobromide.	EQ 7.5 mg Base; EQ 15 mg Base.	Tablet, Extended Release; Oral.	Apil.
NDA 021611	OPANA	Oxymorphone Hydrochloride.	5 mg; 10 mg	Tablet; Oral	Endo Pharms.
NDA 021842	ACTOPLUS MET	Metformin Hydrochloride; Pioglitazone Hydrochloride.	500 mg; EQ 15 mg Base.	Tablet; Oral	Takeda Pharms. USA.
NDA 022203	ASTEPRO	Azelastine Hydrochloride.	0.137 mg/Spray	Spray, Metered; Nasal	Mylan Specialty.
NDA 022434	ARGATROBAN IN SODIUM CHLORIDE.	Argatroban	50 mg/50 mL	Injectable; Intravenous	Eagle Pharms.
NDA 050537	CLEOCIN T	Clindamycin Phosphate	EQ 1% Base	Solution; Topical	Pfizer.
NDA 050580	AZACTAM	Aztreonam	500 mg/Vial	Injectable; Injection	Bristol Myers Squibb.
NDA 204031	XARTEMIS XR	Acetaminophen; Oxycodone Hydrochloride.	325 mg; 7.5 mg	Tablet, Extended Release; Oral.	Mallinckrodt, Inc.
NDA 209481	VANCOMYCIN HYDROCHLORIDE.	Vancomycin Hydrochloride.	EQ 250 mg Base/Vial	Powder; Intravenous	Mylan Labs Ltd.
NDA 209905	EVEKEO ODT	Amphetamine Sulfate	2.5 mg	Tablet, Orally Disintegrating; Oral.	Azurity.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the drug products listed are unaffected by the discontinued marketing of the products subject to these applications. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02442 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0043]

Understanding Priorities for the Development of Digital Health Technologies To Support Clinical Trials for Drug Development and Review; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''Understanding Priorities for the Development of Digital Health Technologies To Support Clinical Trials for Drug Development and Review.'' Convened by the Duke-Robert J. Margolis, MD Center for Health Policy and supported by a cooperative agreement between FDA and Duke-Margolis, the purpose of the public workshop is to understand the priorities for the development of Digital Health Technologies (DHTs) to support clinical drug trials, including accessibility, diversity, and clinical outcome measures using DHTs. Additionally, this public workshop meets a Prescription Drug User Fee Amendments (PDUFA VII) commitment to convene the first of a series of public workshops by the end of the second quarter (Q2), fiscal year (FY) 2023.

DATES: The public workshop will be held virtually on March 28, 2023, and March 29, 2023, from 1 p.m. to 5 p.m., Eastern Time. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held virtually using the Zoom

Platform. The link for the public workshop will be sent to registrants upon registration.

FOR FURTHER INFORMATION CONTACT: Capt. Dianne Paraoan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3326, Silver Spring, MD 20993, 301–796–3161, *Dianne.Paraoan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The seventh iteration of the Prescription Drug User Fee Amendments (PDUFA VII), included as part of the FDA User Fee Reauthorization Act of 2022, highlights the goals of facilitating timely access to safe, effective, and innovative new medicines for patients. The commitments in the PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2023 Through 2027 document (available at: *https://www.fda.gov/industry/prescription-drug-user-fee-amendments/pdufa-vii-fiscal-years-2023-2027*) focus on activities to enhance the use of DHTs to support drug development and review, including working with the Digital Health Center of Excellence.

To meet a PDUFA VII commitment, FDA agreed to convene a series of five public workshops with key stakeholders including patients, biopharmaceutical companies, DHT companies, and academia to gather input into issues related to the use of DHTs in regulatory decision-making. The objective of this first workshop is to understand priorities for the development of DHTs to support clinical drug trials, including the potential for DHTs to increase clinical trial accessibility and diversity, as well as the use of DHTs to capture clinical outcome measures. The public workshop scheduled for March 28 and 29, 2023, fulfills the commitment to convene the first of a series of five public workshops by the end of Q2, FY 2023.

II. Topics for Discussion at the Public Workshop

At the public workshop, FDA plans to discuss with stakeholders priorities and challenges for the development of DHTs to support clinical drug trials, including, but not limited to:

- improving participant access, increasing diversity, and facilitating engagement through remote trial-related measurements;
- understanding patient and industry perspectives;
- understanding opportunities for remote data acquisition directly from trial participants; and
- using DHTs to capture clinical outcomes measures.

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit the following website: *https://duke.is/pzkwx.* Please provide complete contact information for each attendee, including name, title, affiliation, and email.

Registration is free and people interested in attending this public workshop must register to receive a link to the meeting. Registrants will receive a confirmation email after they register.

If you need special accommodations, please contact *Margolisevents@duke.edu* no later than March 7, 2023. Please note, closed captioning will be available automatically.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02479 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–E–1978]

Determination of Regulatory Review Period for Purposes of Patent Extension; DOPTELET

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for DOPTELET and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by April 7, 2023. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 7, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 7, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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–2019–E–1978 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; DOPTELET.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be

placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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 § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT:

Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, DOPTELET (avatrombopag maleate). DOPTELET is indicated for the treatment of thrombocytopenia in adult patients with chronic liver disease who are scheduled to undergo a procedure. Subsequent to this approval, the USPTO received a patent term restoration application for DOPTELET (U.S. Patent No. 7,638,536) from Astellas Pharma Inc., and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated June 21, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of DOPTELET represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for DOPTELET is 4,632 days. Of this time, 4,389 days occurred during the testing phase of the regulatory review period, while 243 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* September 16, 2005. The applicant claims October 3, 2005, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 16, 2005, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* September 21, 2017. FDA has verified the applicant's claim that the new drug application (NDA) for DOPTELET (NDA 210238) was initially submitted on September 21, 2017.

3. *The date the application was approved:* May 21, 2018. FDA has verified the applicant's claim that NDA 210238 was approved on May 21, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02482 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0601]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Medicated Feeds

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the recordkeeping requirements for manufacturers of medicated animal feeds.

DATES: Either electronic or written comments on the collection of information must be submitted by April 7, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 7, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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–2010–N–0601 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Medicated Feeds.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's

estimate of the burden of the proposed 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) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice Regulations for Medicated Feeds—21 CFR Part 225

OMB Control Number 0910–0152—Extension

Under section 501 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (CGMP) regulations for drugs, including medicated feeds. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease, or growth promotion and feed efficiency. Statutory requirements for CGMPs have been codified under part 225 (21 CFR part 225). Medicated feeds that are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the FD&C Act. Under part 225, a manufacturer is required to establish, maintain, and retain records for a medicated feed, including records to document procedures required during the manufacturing process to assure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (*i.e.,* batch and stability testing), labels, and product distribution.

This information is needed so that FDA can monitor drug usage and possible misformulation of medicated feeds to investigate violative drug residues in products from treated animals and to investigate product defects when a drug is recalled. In addition, FDA will use the CGMP criteria in part 225 to determine whether the systems and procedures used by manufacturers of medicated feeds are adequate to ensure that their feeds meet the requirements of the FD&C Act as to safety, and also that they meet their claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the FD&C Act.

A license is required when the manufacturer of a medicated feed involves the use of a drug or drugs that FDA has determined requires more control because of the need for a withdrawal period before slaughter or because of carcinogenic concerns. Conversely, a license is not required, and the recordkeeping requirements are less demanding, for those medicated feeds for which FDA has determined that the drugs used in their manufacture need less control. Respondents to this collection of information are commercial feed mills and mixers/feeders.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN—REGISTERED LICENSED COMMERCIAL FEED MILLS [1]

21 CFR part	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
225.42(b)(5) through (8) requires records of receipt, storage, and inventory control of medicated feeds.	791	260	205,660	1	205,660
225.58(c) and (d) requires records of the results of periodic assays for medicated feeds that are in accord with label specifications and also those medicated feeds not within documented permissible assay limits.	791	45	35,595	0.50 (30 minutes)	17,798
225.80(b)(2) requires that verified medicated feed label(s) be kept for 1 year.	791	1,600	1,265,600	0.12 (7 minutes)	151,872
225.102(b)(1) through (5), requires records of master record files and production records for medicated feeds.	791	7,800	6,169,800	0.08 (5 minutes)	493,584
225.110(b)(1) and (2) requires maintenance of distribution records for medicated feeds.	791	7,800	6,169,800	0.02 (1 minute)	123,396
225.115(b)(1) and (2) requires maintenance of complaint files by the medicated feed manufacturer.	791	5	3,955	0.12 (7 minutes)	475
Total					992,785

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN—REGISTERED LICENSED MIXER/FEEDERS [1]

21 CFR part	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.42(b)(5) through (8) requires records of receipt, storage, and inventory control of medicated feeds.	100	260	26,000	0.15 (9 minutes)	3,900
225.58(c) and (d) requires records of the results of periodic assays for medicated feeds that are in accord with label specifications and also those medicated feeds not within documented permissible assay limits.	100	36	3,600	0.50 (30 minutes)	1,800
225.80(b)(2) requires that verified medicated feed label(s) be kept for 1 year.	100	48	4,800	0.12 (7 minutes)	576
225.102(b)(1) through (5) requires records of master record files and production records for medicated feeds.	100	260	26,000	0.40 (24 minutes)	10,400
Total					16,676

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN—NONREGISTERED NON-LICENSED COMMERCIAL FEED MILLS [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.142 requires procedures for identification, storage, and inventory control (receipt and use) of Type A medicated articles and Type B medicated feeds.	4,357	4	17,428	1	17,428
225.158 requires records of investigation and corrective action when the results of laboratory assays of drug components indicate that the medicated feed is not in accord with the permissible assay limits.	4,357	1	4,357	4	17,428
225.180 requires identification, storage, and inventory control of labeling in a manner that prevents label mix-ups and assures that correct labels are used for medicated feeds.	4,357	96	418,272	0.12 (7 minutes)	50,193
225.202 requires records of formulation, production, and distribution of medicated feeds.	4,357	260	1,132,820	0.65 (39 minutes)	736,333
Total					821,382

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN—NONREGISTERED NON-LICENSED MIXER/FEEDERS [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours
225.142 requires procedures for identification, storage, and inventory control (receipt and use) of Type A medicated articles and Type B medicated feeds.	3,400	4	13,600	1	13,600
225.158 requires records of investigation and corrective action when the results of laboratory assays of drug components indicate that the medicated feed is not in accord with the permissible assay limits.	3,400	1	3,400	4	13,600
225.180 requires identification, storage, and inventory control of labeling in a manner that prevents label mix-ups and assures that correct labels are used for medicated feeds.	3,400	32	108,800	0.12 (7 minutes)	13,056
225.202 requires records of formulation, production, and distribution of medicated feeds.	3,400	260	884,000	0.33 (20 minutes)	291,720
Total					331,976

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall decrease of 10,435 hours and an increase of 831,545 records since last OMB approval. We attribute this adjustment due to an increase in the number of non-registered, non-licensed commercial medicated feed mills and decrease in non-licensed medicated feed mill recordkeeping the last few years.

Dated: February 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–02446 Filed 2–3–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Research Resource Center to Build an Open-Access Repository and Database for Anatomical and Physiological Correlates of Acupoints (U24, Clinical Trial Optional).

Date: March 3, 2023.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Center for Complementary and Integrative Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shiyong Huang, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20817, *shiyong.huang@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: February 1, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–02462 Filed 2–3–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Information Program on Clinical Trials: Maintaining a Registry and Results Databank (National Library of Medicine)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this 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.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Christeenna Iraheta, Office of Administrative and Management Analysis Services, National Library of Medicine, Building 38A, Room B2N12A, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 480–7605, or Email your request, including your address to: *Christeenna.iraheta@nih.gov*.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on November 15, 2022, pages 68508–9 (87 FR 68508) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Library of Medicine (NLM), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Information Program on Clinical Trials: Maintaining a Registry and Results Databank, 0925–0586, Expiration Date 02/28/2023—EXTENSION, National Library of Medicine (NLM), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Institutes of Health operates *ClinicalTrials.gov,* which was established as a clinical trial registry under section 113 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) and was expanded to include a results data bank by title VIII of the Food and Drug Administration Amendments Act of 2007 (FDAAA) and by the Clinical Trials Registration and Results Information Submission regulations at 42 CFR part 11. *ClinicalTrials.gov* collects registration and results information for clinical trials and other types of clinical studies (*e.g.,* observational studies and patient registries) with the objectives of enhancing patient enrollment and providing a mechanism for tracking subsequent progress of clinical studies to the benefit of public health. It is widely used by patients, physicians, and medical researchers; in particular those involved in clinical research. While many clinical studies are registered and results information submitted voluntarily, 42 CFR part 11 requires the registration and submission of results information for certain applicable clinical trials of drug, biological, and device products whether or not they are approved, licensed, or cleared by the Food and Drug Administration.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,219,801.

ESTIMATED ANNUALIZED BURDEN HOURS

Submission type	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Registration—attachment 2				
Initial	7,400	1	8	59,200
Updates	7,400	8	2	118,400
Triggered, voluntary	141	1	8	1,128
Initial, non-regulated, NIH Policy	940	1	8	7,520
Updates, non-regulated, NIH Policy	940	8	2	15,040
Initial, voluntary and non-regulated	17,860	1	8	142,880
Updates, voluntary and non-regulated	17,860	8	2	285,760
Results Information Submission—attachment 5				
Initial	7,400	1	40	296,000
Updates	7,400	2	10	148,000
Triggered, voluntary—also attachment 2	47	1	45	2,115
Initial, non-regulated, NIH Policy	940	1	40	37,600
Updates, non-regulated, NIH Policy	940	2	10	18,800
Initial, voluntary and non-regulated	1,400	1	40	56,000
Updates, voluntary and non-regulated	1,400	2	10	28,000
Other				
Certification to delay results—attachment 6	5,150	1	30/60	2,575
Extension request and Appeal—attachment 7	125	1	2	250
Initial, expanded access—attachment 3	213	1	2	426
Updates, expanded access—attachment 3	213	2	15/60	107
Total	77,769	271,122	.....	1,219,801

Dated: January 31, 2023.

Christeenna M. Iraheta,

Project Clearance Liaison, National Library of Medicine, National Institutes of Health.

[FR Doc. 2023–02381 Filed 2–3–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Eye Institute Special Emphasis Panel; Center Core Grants for Vision Research (P30) and R13 Conference Grants.

Date: March 9, 2023.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Jeanette M Hosseini, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, 6700 B Rockledge Drive, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: February 1, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–02461 Filed 2–3–23; 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: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.

Date: March 1–2, 2023.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Karobi Moitra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–6893, *karobi.moitra@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Vision Imaging, Bioengineering and Low Vision Technology Development.

Date: March 2–3, 2023.

Time: 8:30 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: Susan Gillmor, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 762–3076, *susan.gillmor@nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: March 2–3, 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: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Organization and Delivery of Health Services Study Section.

Date: March 2–3, 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: Catherine Hadeler Maulsby, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1266, *maulsbych@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–20–117: Maximizing Investigators' Research Award (MIRA) for Early-Stage Investigators (R35—Clinical Trial Optional).

Date: March 2–3, 2023.

Time: 9:00 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: Anita Szajek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–827–6276, *anita.szajek@nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Interdisciplinary Clinical Care in Specialty Care Settings Study Section.

Date: March 2–3, 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: Abu Saleh Mohammad Abdullah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–4043, *abuabdullah.abdullah@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.

Date: March 2–3, 2023.

Time: 9:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christine Jean DiDonato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1014J, Bethesda, MD 20892, (301) 435–1042, *didonatocj@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Bacterial-Host Interactions Study Section (BHI).

Date: March 2–3, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Capitol, 550 C Street SW, Washington, DC 20024.

Contact Person: Uma Basavanna, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD

20892, 301–827–1398, *uma.basavanna@nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Innate Immunity and Inflammation Study Section.

Date: March 2–3, 2023.

Time: 9:00 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: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–613–2822, *boundst@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 31, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–02389 Filed 2–3–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing 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 Nursing Research Initial Review Group.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Nursing Research, 6701 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weiqun Li, MD, Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Ste. 710, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: February 1, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–02460 Filed 2–3–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7077–N–02]

Privacy Act of 1974; System of Records Modification

AGENCY: Office of Administration, HUD.

ACTION: Notice of a modified system of records.

SUMMARY: HUD's Debt Collection and Asset Management System, which consist of two sister systems Title I and Generic Debt, is operated to collect and maintain data needed to support activities related to the Department's collection of delinquent debt obligations. Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to modify a system of records entitled ''Debt Collection and Asset Management System—Title I/Generic Debt''. This system of records is being revised to make clarifying changes within: System Location, Security Classification, System Manager, Authority for Maintenance of the System, Purpose of the System, Categories of Individuals Covered by the System, Categories of Records in the System, Records Source Categories, Routine Uses of Records Maintained in the System, Retrieval of Records, Retention and Deposal of Records. The SORN modifications are outlined in the SORN ''Supplementary Information'' section.

DATES: Comments will be accepted on or before March 8, 2023. This proposed new routine use actions will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number by one method:

Federal e-Rulemaking Portal: https://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: www.privacy@hud.gov.

Mail: Attention: Privacy Office; LaDonne White, Chief Privacy Officer; The Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410–0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: LaDonne White, 451 Seventh Street SW, Room 10139, Washington, DC 20410; telephone number 202–708–3054 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION: HUD, Albany Financial Operations Center maintains the ''Debt Collection and Asset Management System—Title I/Generic Debt'' system. HUD is publishing this revised notice to establish a new and modified routine use and to reflect updated information in the sections being revised. The modification of the system of records will have no undue impact on the privacy of individuals covered and updates made are explained below.

The following are updates since the previous SORN publication:

Security Classification: Added systems of record classification status.

System Location: Replaced former data center and HUD locations with new locations in Virginia, Mississippi, and Washington.

System Manager: Identified new system manager expected to operate this system of records.

Authority for Maintenance of the System: Updated with existing authorities that permit the maintenance of the systems records. Statutes and regulations are listed below.

Categories of Individuals Covered by the System: Reorganized this section to group and clarify individuals according to their system coverage.

Categories of Records in the System: Updated this section to clarify the individuals whose personal identifiable information is collected.

Records Source Categories: Updated to cover all electronic and manual

record sources for internal and external systems to HUD.

Routine Use of Records: Updated to cover routine uses that are new, modified, or removed.

New Routine Uses

Routine Use (1) added to cover disclosures made to National Archives and Records Administration, Office of Government Information Services, to review administrative agency policies, procedures, and compliance with FOIA and to mediate the resolution of resolution of dispute between persons making FOIA requests and administrative agencies; Routine Use (2) added to cover disclosures made to a congressional office from the record of an individual, in response to an inquiry from the congressional office made at the request of that individual; Routine Use (4) added to cover disclosures made to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents, or employees) for the purpose detecting and preventing improper payments and fraud, waste, and abuse in Federal programs by providing information necessary for the verification of prepayment and pre-award requirements; *Routine Use (5) added to cover disclosures made to contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities performing research and statistical analyses of HUD programs;* Routine Use (6) added to cover disclosures made to contractors, grantees, experts, consultants and their agents, or others performing or working under a contract or other agreement when necessary to accomplish a HUD mission function supported by a system of records; *Routine Use (10), add to test information technology uses with authorized recipient agencies to assist in addressing enhancements for program information technology and services; Routine Uses (11) and (12) added to cover disclosures made to agencies, entities, and persons to assist HUD in responding to suspected or confirmed breaches of the system of records or to other Federal agencies when HUD determines that information from the system of records is needed to assist to the agency in responding to a suspected or confirmed breach;* and Routine Uses *(13) and (14) added to cover disclosures made to a court, magistrate, administrative tribunal, or arbitrator while presenting evidence in civil or criminal proceedings and to appropriate Federal, State, local, tribal, or other governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a criminal or civil statute, rule, regulation, order, or license.*

Updated Routine Use

Routine Use (7) and (8) updated to explain each disclosure type, Treasury organization, and organization change (from Financial Management Service (FMS) to Bureau of Fiscal Service (the Fiscal Service) and additional details under Treasury collection services; and Treasury Internal Revenue Service (IRS) for reporting debt cancellations and mortgage interest payment; Routine Use (3) updated to specify the Department's Single Family Program Development CAIVRS SORN agencies that use the program data offered by the CAIVRS matching program; and Routine Use (15) was updated to clarify disclosures made to the Department of Justice or other Federal agencies conducting litigation before any court, adjudicative, or administrative body.

Removed Routine Use

Routine Use (2) removed disclosure made to Administrative Law Judge conducting an administrative proceeding, where HUD is a party, and to the interested parties to the extent necessary for conducting the proceeding, cited in prior SORN, since its presence for disclosures will be addressed by new RU 15; and Routine Use (8) removed disclosure made to Third-party debt purchasers', cited in prior SORN, since HUD no longer administers the sale and transfer of delinquent debts to Third parties.

In the past, Routine Uses (2), (5), (6), (11), (13), (14), (15) were based on routine uses previously applied through HUD's 2015 Routine Use Inventory publication, these routine uses are now reorganized, incorporated, and updated as part of this system of records.

Records Retention and Disposition: Updated this section to describe current retention and disposal requirements.

Removed routine use exceptions Crediting Reporting Bureaus and General Accounting Office.

Policy and Practice for Retrieval of Records: Updated to include minor changes and format—Reformatted the retrieval statement for borrowers' records retrieved. Added existing retrieval practice for system users' records retrieved.

SYSTEM NAME AND NUMBER:

Debt Collection and Asset Management System (DCAMS), which consists of two sister systems Title I and Generic Debt, HUD/HOU–55.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

HUD's Albany Financial Operations Center, 52 Corporate Circle, Albany, New York 12203; Pittsfield Federal Records Center, 10 Conte Drive, Pittsfield, MA 01201, National Center for Critical Information Processing and Storage, 9325 Cypress Loop Road, Stennis, MS 39629; and 250 Burlington Drive, Clarksville, VA 23927; and at HUD Headquarters Building, 451 Seventh Street SW, Washington, DC 20410–10001.

SYSTEM MANAGER(S):

Michael DeMarco, Director, HUD, Albany Financial Operations Center, 52 Corporate Circle, Albany, New York 12203, telephone number 518–862–2859.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5514 and 31 U.S.C. 3701 *et seq.*), which includes provisions of the Federal Claims Collection Act of 1966 (Pub. L. 89–508); Debt Collection Act of 1982 (Pub. L. 97–365); Debt Collection Improvement Act of 1996 (Pub. L. 104–134), as amended; 31 CFR 285, 24 CFR part 17, subpart C; Federal Claims Collection Standards, codified at 31 CFR parts 900 through 904; 12 U.S.C. 1703(c) authorizes the collection, compromise, and sale of debt obligations to HUD in connection with the payment of FHA Title I loans; 12 U.S.C. 1710(g) authorizes collection, compromise, and sale of debt obligations in connection the payment of FHA Title II loans; The Housing Community and Development Act of 1987 (Pub. L. 100–242, title I, 165, Feb. 5, 1988, 101 Stat. 1864), which is codified at 42 U.S.C. 3543(a); 24 CFR part 5, subpart B. The Housing Community and Development Act of 1987 (Pub. L. 100–242, title I, 165, Feb. 5, 1988, 101 Stat. 1864), which is codified at 42 U.S.C. 3543(a), authorizes the Secretary of HUD to collect Social Security Numbers from program participants. 24 CFR part 5, subpart B implements HUD's policies for implementing its authorities to collect Social Security Numbers.

PURPOSES(S) OF THE SYSTEM:

The primary purpose of DCAMS is to collect and maintain data needed to support activities related to the collection and servicing of various HUD/FHA debts. Debt collection and servicing activities include sending both automated and manually generated correspondence; making official phone calls; reporting consumer data to the credit bureaus, supporting collection

initiatives, such as wage garnishment, offset of federal payments, pursuit of judgments, and foreclosure; and supporting defensive litigation related to foreclosure and actions to quiet title.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Borrowers/Co-borrowers who have debts resulting from default on their HUD/FHA-insured Title I and Title II loans; (2) Individual business partners including business who have debts resulting from their participation as loan originators, loan servicers, underwriters, real estate brokers, appraisers, and property managers in HUD/FHA's Single Family (Title I and Title II) and Multifamily loan programs; and (3) HUD employees and contractor support staff involved in the debt collection activities supported by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full Name, Date of Birth, Address (property and work), Social Security Numbers, Tax Identification Number, Phone Numbers (work, personal, business); Marital Status, Payment and Salary Information, Employment Status History Information, Financial Account Data including Loan Origination Information and Documentation, Bankruptcy Documents including Case Number, Promissory Notes, Mortgages, Civil and Criminal Judgements, Liens Information, Histories, Foreclosure Documents, Judicial Decisions and Orders, Collection and Account Statuses, Account Number (also known as case or claim number).

RECORD SOURCE CATEGORIES:

Federal, state, and local agencies, public records, credit reporting agency reports, FHA-approved business entities, and civil and criminal courts.

Electronic and Manual data entries and uploads by HUD personnel and contractors based on data maintained or exchanged from the following internal and external systems:

- Housing, Office of Finance and Budget: F72—Title I Insurance and Claims System (TIIS)—Electronic-Manual Entry, A43C—Single Family Insurance System—Claims (CLAIMS), and A80S—Single Family Asset Management System (SAMS)—Manual Entry.
- Office of Chief Information Officer: P299—HUD *PAY.GOV* Common Services (HPCS)—Electronic-Manual Entry.
- Housing, Office of Single Family Housing: A80H—Single Family Mortgage Asset Recovery System (SMART)—Manual Entry, D64A—Single Family Housing Enterprise Data Warehouse (SFHEDW)—Manual Entry.
- Department of the Treasury, Bureau of the Fiscal Service: Lockbox Network Systems, Intra-Governmental Payment and Collection, Cross Servicing, and Treasury Offset Program—Electronic-Manual entry.
- United States Courts: Public Access to Court Electronic Records—Manual entry.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(1) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS's offering of mediation service to resolve disputes between persons making FOIA requests and administrative agencies.

(2) To a Congressional Office from the record of an individual, in response to an inquiry from the congressional office made at the request of that individual.

(3) To Federal, State, and local agencies, their employees, and agents for the purpose of conducting computer matching programs as regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a). Records from this system of records are shared with the Department of Education, Veterans Administration, Department of Justice, Department of Agriculture, and Small Business Administration, from Credit Alert reporting (CAIVRS), which is a HUD-sponsored database that makes a federal debtor's delinquency and claim information available to federal lending and assistance agencies and private lenders who issue federally insured or guaranteed loans for the purpose of evaluating a loan applicant's creditworthiness.

(4) To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom HUD has a contract, service agreement, grant, cooperative agreement, or computer matching agreement for: (1) Detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in major Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only if the information shared is necessary and relevant to verify pre-award and prepayment requirements before the release of Federal funds, prevent and recover improper payments for services rendered under programs of HUD or of those Federal agencies and non-Federal entities to which HUD provides information under this routine use.

(5) To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or their parties, and entities and their agents with whom HUD has a contract, service agreement, grant, cooperative agreement, or other agreement, for the purposes of statistical analysis and research in support of program operations, management, performance monitoring, evaluation, risk management, and policy development, or to otherwise support the Department's mission. Records under this routine use may not be used in whole or in part to make decisions that affect the rights, benefits, or privileges of specific individuals. The results of the matched information may not be disclosed in identifiable form.

(6) To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, or cooperative agreement, or other agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function.

(X)

(7) To the Department of Treasury, Bureau of Fiscal Service, who provides debt and cash collection services for HUD as follows:

(1) *Administrative Offset (Debt Collection):* offsets Federal tax refund payments and non-tax payments certified for disbursement to the debtor to recover a delinquent debt.

(2) *Cross-servicing (Debt Collection):* pursues recovery of delinquent debts on behalf of Federal agencies using debt collection tools authorized by statute, such as private collection agencies, administrative wage garnishment, or public dissemination of an individual's delinquent indebtedness; or any other legitimate debt collection purpose.

(8) To the Department of Treasury, Internal Revenue Services (IRS) for the purposes of reporting canceled debt on form IRS 1099–C and mortgage interest paid on form IRS 1098.

(9) To defaulted borrowers' employers to when issuing an order to garnish the wages of the defaulted borrower.

(10) To appropriate federal, state, local, tribal, or foreign governmental

agencies or multilateral governmental organizations, with the approval of the Chief Privacy Officer, when HUD is aware of a need to use relevant data for purposes of testing new technology.

(11) To another Federal agency or Federal entity when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(12) To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed that there has been a breach of the system of records; (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(13) To appropriate Federal, State, local, tribal, or other governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforce civil or criminal laws, when such records, either alone or in conjunction with other information, indicate a violation or potential violation of law.

(14) To a court, magistrate, administrative tribunal, or arbitrator in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, mediation, or settlement negotiations; or in connection with criminal law proceedings; when HUD determines that use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where HUD has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(15) To any component of the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when HUD determines that the use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where the Department of Justice or agency conducting the litigation has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper and Electronic.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved primarily by Social Security Number, Name, Address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed of in accordance with the National Archives and Records Administration, General Records Schedule 1.1, Financial Management and Reporting Records; GRS 3.1, Information Technology Development Records; GRS 3.2, Information Security Records; and 5.2, Transitory and Intermediary Records. General records are maintained for periods of 1–6 years unless a longer retention period is deemed necessary for investigative purposes or business use. Electronic and paper records will be destroyed in accordance with systems disposal and NIST 800–88 Guidelines. If necessary, paper records are destroyed by burning, and electronic and media records are destroyed in accordance with NIST Special Publication 800–88, Guidelines for Media Sanitization. 4.2 Information Access and Protection Records to SORN ''Policy and Practices for Retention and Disposal

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Administrative Controls: Data backups secured off-site; access granted only to authorized personnel; periodic security audits; regular monitoring of users' security practices. Access to PII is limited to individuals who have undergone pre-employment screening and who have a demonstrated need for access. Role-based security controls are assessed annually. The system accounts of users with access to PII are reviewed quarterly and re-certified annually.

Physical Controls: Key card, controlled access, security guards, and identification badges. The data center employs six layers of around-the-clock physical security: buffer zone, perimeter fencing, armed security at all gates, roving armed guards, armed guards on data center floor space, and an access control system. The Financial Operations Center in Albany, New York employs three layers of physical security: locked entrances to facility, locked file room for storing paper records, and an access control system.

Technical Controls: Biometrics, firewalls, role-based access controls, virtual private network, use of privileged account (Elevated Roles), external certificate authority certificates, Personal Identity Verification (PIV) cards, and intrusion detection system. Directory-based identity-related services authenticate and authorize users accessing HUD's internal network. Security services employ system entry validation, individual accountability, and resource access control to authenticate and authorize users accessing the system.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this System of Records contains information on themselves should address written inquiries to the Department of Housing Urban and Development 451 7th Street SW, Washington, DC. For verification, individuals should provide full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'' If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'' More information regarding HUD'S procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR part 16 Subpart D, 'Protection of Privacy

and Access to Individual Records Under the Privacy Act of 1974.''

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the ''RECORD ACCESS PROCEDURES'' paragraph, above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked ''Privacy Act Amendment Request.'' All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record. More information regarding HUD's procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, ''Requests for Amendment or Correction of Records.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Department of Housing Urban Development Chief Financial Officer, 451 7th Street SW, Washington, DC 20410–0001. For verification, individuals should provide full name, office or organization where assigned, if applicable, and current address and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

HUD/HS–55: DCAMS 72 63919 (November 13, 2007).

HUD/HS–55: DCAMS 72 FR–69703 (December 10, 2007).

LaDonne White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2023–02451 Filed 2–3–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7066–N–01]

60-Day Notice of Proposed Information Collection: Notice of Proposed Information Collection: Continuum of Care Homeless Assistance—Technical Submission; OMB Control No.: 2506–0183

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* April 7, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Anna Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; telephone 202–402–5535 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information.

FOR FURTHER INFORMATION CONTACT: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7262, Washington, DC 20410; telephone (202) 708–5015 (This is not a toll-free number). Copies of available documents submitted to OMB may be obtained from Anna P. Guido. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Information Collection:

OMB Approval Number: 2506–0183.

Type of Request: Extension of currently approved collection.

Form Number: HUD–40090–3a.

Description of the need for the information and proposed use: This submission is to request an extension of a currently approved collection for reporting burden associated with the Technical Submission phase of the Continuum of Care (CoC) Program Application. This submission is limited to the Technical Submission process under the CoC Program interim rule, as authorized by the HEARTH Act. Applicants who are successful in the CoC Program Competition are required to submit more detailed technical information before grant agreement. The information to be collected will be used to ensure that technical requirements are met prior to the execution of a grant agreement. The technical requirements relate to a more extensive description of the budgets for administration costs, timelines for project implementation, match documentation and other project specific documentation, and information to support the resolution of grant conditions. HUD will use this detailed information to determine if a project is financially feasible and whether all proposed activities are eligible. All information collected is used to carefully consider conditional applicants for funding. If HUD collects

less information, or collected it less frequently, the Department could not make a final determination concerning the eligibility of applicants for grant funds and conditional applicants would not be eligible to sign grant agreements and receive funding. To see the regulations for the CoC Program and applicable supplementary documents, visit HUD's Homeless Resource Exchange page at *https://www.hudexchange.info/programs/coc/.* The statutory provisions and the implementing interim rule (also found at 24 CFR part 587) that govern the program require the information provided by the Technical Submission.

Respondents: Applicants that are successful in the Continuum of Care Homeless Assistance Grant competition.

Estimated Number of Respondents: 750.

Estimated Number of Responses: 750.

Frequency of Response: 1 time annually.

Average Hours per Response: 8.

Total Estimated Burdens: The total number of hours needed for all reporting is 126,000 hours.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Exhibit 3 CoC Technical Submissions *e-snaps* Forms, formerly HUD–40090–3(a–b)	750	1	750	8	6,000	53.67	322,020
Submission Subtotal	750	1	750	8	6,000	53.67	322,020
Total Grant Program Application Collection.							
Total	750	1	750	8	6,000	53.67	322,020

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Principal Deputy Assistant Secretary for Community Planning and Development, Marion McFadden, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Aaron Santa Anna, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Aaron Santa Anna,

Federal Register Liaison for the Department of Housing and Urban Development.

[FR Doc. 2023–02450 Filed 2–3–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7077–N–01]

Privacy Act of 1974; System of Records

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of a modified system of records.

SUMMARY: Under the provision of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of Housing and Urban Development (HUD), Office of Public and Indian Housing (PIH), Real Estate Assessment Center (REAC), is modifying system of records, The Quality Assurance/Quality Control Administrative Files of the Real Estate Assessment Center,'' to name change to Physical Assessment Sub-System (PASS). The modification makes updates to the system of records name, location and system manager, authority, purpose, categories of individuals, categories of records in the system, record source categories, routine uses, policies and practices for storage, retrieval, retention and disposal, safeguards, and access, contesting and notification procedures. The updates are explained in the ''Supplementary Section'' of this notice. The existing scope, objectives, business processes, and uses being made of the data by the HUD remains unchanged.

DATES: Comments will be accepted on or before March 8, 2023. The SORN becomes effective immediately, while the routine uses become effective after the comment period immediately upon publication except for the routine uses, which will become effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number or by one of the following methods:

Federal e-Rulemaking Portal: https://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: www.privacy@hud.gov.

Mail: Attention: Privacy Office; Mr. LaDonne White, Chief Privacy Officer; Office of the Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410–0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov.* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: LaDonne White; 451 Seventh Street SW, Room 10139; Washington, DC 20410; telephone number 202–708–3054 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or

hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION: HUD has modified system of records notice for the Physical Assessment Sub-System (PASS–R) to include these substantive changes, besides administrative updates to regulatory references along with word and format changes throughout the SORN. The modifications to SORN PASS include these changes: The Quality Assurance/Quality Control Administrative Files of the Real Estate Assessment Center'' to ''Physical Assessment Sub-System (PASS–R)''. The ''System Location'' and ''System Manager(s)'' sections have been updated and brings the information current. The ''Authority for Maintenance of the System'' is updated to reflect periodic updates to titles of listed authorities. The ''Purpose(s) of the System'' section described in SORN FR–4566–N–15 is updated to align the description with system functionality, this update includes more details listing the program offices supported by the system and the schedule tracking capability of the system. The ''Categories of Individuals Covered by the System'' includes the description in SORN FR–4456–N–15 and describes roles and function. The ''Categories of Records in the System'' includes the list of data elements in SORN FR–4456–N–15, updated to include the collection of personal identifiable information provided by authorized individuals who have contracted with HUD or servicing mortgages to perform inspections and servicing mortgages whose employees are certified to conduct inspections. The ''Record Source Categories'' includes the descriptions provided in SORN FR–4456–N–15 and clarifies that the term ''subject individuals'' includes inspector candidates and HUD certified inspectors. The ''Routine Uses of Records Maintained in the System, Including Categories of Uses and Purpose of Such Uses'' updated to include the applicable routine uses. The ''Policies and Practices for Storage of Records'' section which stated that ''Records are stored electronically in office automation equipment and manually in file jackets'' has been updated to include paper and electronic records. The ''Policies and Practice for Retention and Disposal of Records'' which stated the ''The records are retained and disposed of in accordance with the General Records Schedule contained in the HUD Records Schedule contained in the HUD Handbook 2228.2, appendix 14, item 25'' now reference the appropriate National Archives and Records Administration schedule. The ''Administrative, Technical and Administrative Safeguards'' has been updated to list additional safeguards now used to protect records from unauthorized access (*e.g.,* privacy and security documents and training, encryption, smart cards, biometrics, firewalls, and intrusion detection.

SYSTEM NAME AND NUMBER:

Physical Assessment Sub-System (PASS–R), PIH–REAC 3.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the Department of Housing and Urban Development Headquarters, 451 Seventh Street SW, Room 4156, Washington, DC 20410.

SYSTEM MANAGER(S):

Office of Public and Indian Housing (PIH), Ashley Sheriff, Acting Deputy Assistant Secretary, Real Estate Assessment Center, 550 12th Street SW, Suite 100, Washington, DC 20410. 202–475–7949.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), and in the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701, *et seq.*). Subpart G of 24 CFR part 5; The Debt Collection Improvement Act of 1996 (31 U.S.C. 7701(c)); 24 CFR part 902, as amended. 24 CFR 200, subpart P.

PURPOSE(S) OF THE SYSTEM:

The Physical Assessment Sub-System (PASS–R) is a functional unit of PIH–REAC that provides HUD with a variety of functions that help ensure the integrity of HUD's public housing and assisted multifamily (MF) properties. This system coordinates the procurement of Inspector candidates to conduct Uniform Physical Condition Standards (UPCS) inspections for Public Housing Agencies/Authorities (PHAs) and the Office of Multifamily Housing (MFH) assisted and insured properties. The system ensures inspection scheduling for both PHA and MFH properties and arranges for correction and rescheduling of inspections deemed incomplete or deficient. This system also enables quality control checks of each uploaded inspection and provides property specific on-line reporting of the inspection results in Secure Systems and this system facilitates responses to technical review and database adjustment requests from PHAs and MFH owners and agents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inspectors authorized to participate in the process for inspecting HUD and federally assisted properties.

CATEGORIES OF RECORD IN THE SYSTEM:

Full name, inspector identification number, height, weight, birth year, hair color, eye color, gender, home address, city, state, email address, telephone numbers (home, work, cell), fax number, and photo.

RECORD SOURCE CATEGORIES:

Individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(1) To appropriate agencies, entities, and persons when (1) the HUD suspects or has confirmed that there has been a breach of the system of records, (2) the HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(2) To another Federal agency or Federal entity, when the HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(3) To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, cooperative agreement, or other agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function.

(4) To a court, magistrate, administrative tribunal, or arbitrator in the course of presenting evidence, including disclosures to opposing

counsel or witnesses in the course of civil discovery, litigation, mediation, or settlement negotiations, or in connection with criminal law proceedings; when HUD determines that use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where HUD has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(5) To any component of the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when HUD determines that the use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where the Department of Justice or agency conducting the litigation has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic and paper records.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by inspector name and inspector's identification number.

POLICIES AND PRACTICIES FOR RETENTION AND DISPOSAL OF RECORDS:

Temporary. Destroy upon verification of successful creation of the final document or file, or when no longer needed for business use, whichever is later.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Administrative Safeguards: When first gaining access to PASS–R and annually, all users must agree to the systems ''Rules of Behavior'' which specify handling of personal information and any physical records.

Technical Safeguards: Controls for the system include, but are not limited to, user identification, password protection, firewalls, virtual private network, encryption, intrusion detection system, common access cards, smart cards, biometrics, and public key infrastructure. Unauthorized access is controlled by the application-level security.

Physical Safeguards: Controls to secure the data and protect paper and electronic records, buildings, and related infrastructure against threats associated with their physical environment include, but are not limited to, using the HUD Employee ID and/or badge number and key cards, security guards, cipher locks, biometrics, and closed-circuit TV. Paper records are secured in locked file cabinets, offices, and facilities. Electronic media are kept on secure servers or computer systems. Records are stored in a dedicated file room or in locking file cabinets in file folders. During normal business hours, assigned agency personnel, including Records Management staff and on-site contractor personnel, regulate availability of the files. During evening and weekend hours the offices are locked.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Department of Housing and Urban Development, Attn: FOIA Program Office, 451 7th Street SW, Suite 10139, Washington, DC 20410–0001. or by emailing *foia@hud.gov.* Individuals must furnish the following information for their records to be located:

1. Full name.
2. Signature.
3. The reason why the individual believes this system contains information about him/her.
4. The address to which the information should be sent.

CONTESTING RECORD PROCEDURES:

Same as the Notification Procedures above.

NOTIFICATION PROCEDURES:

Any person wanting to know whether this system of records contains information about him or her should contact the System Manager. Such person should provide his or her full name, position title and office location at the time the accommodation was requested, and a mailing address to which a response is to be sent.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Docket No. FR–4456–N–15, FR 28193, May 22, 2001.

LaDonne White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2023–02454 Filed 2–3–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R3–ES–2022–0171; FXES11140300000–234]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Great Pathfinder Wind Project, Hamilton and Boone Counties, Iowa; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of documents; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Great Pathfinder Wind LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act. If approved, the ITP would be for a 6-year period and would authorize the incidental take of two endangered species, the Indiana bat and the northern long-eared bat. The applicant has prepared a habitat conservation plan (HCP) in support of their application. We have made a preliminary determination that the HCP and permit application are eligible for categorical exclusion under the National Environmental Policy Act. We invite comments from the public and Federal, Tribal, State, and local governments.

DATES: We will accept comments received or postmarked on or before March 8, 2023.

ADDRESSES: *Document availability:* Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2022–0171 at *https://www.regulations.gov.*

Comment submission: Please specify whether your comment addresses the proposed habitat conservation plan, draft environmental action statement, any combination of the aforementioned documents, or other documents. You may submit written comments by one of the following methods:

- *Online: https://www.regulations.gov.* Search for and

submit comments on Docket No. FWS–R3–ES–2022–0171.

• *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2022–0171; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Kraig McPeek, Field Supervisor, Illinois-Iowa Ecological Services Field Office, by email at *kraig_mcpeek@fws.gov,* or telephone at 309–757–5800, extension 202; or Andrew Horton, Regional HCP Coordinator, Midwest Region, by email at *andrew_horton@fws.gov,* or telephone at 612–713–5337. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, have received an application from Great Pathfinder Wind LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) incidental to the operation of 66 wind turbines with a total generating capacity of 225 megawatts (MW) at the Great Pathfinder Wind Project in Hamilton and Boone Counties, Iowa. While the ITP is for 6 years, the operational life of most new wind energy facilities is 30 years, and intensive monitoring conducted during this permit term will inform the need for future avoidance or a future long-term ITP for the remaining life of the project that will comply with a future National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis and habitat conservation plan (HCP). The applicant has prepared an HCP that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the covered species for the first 6 years.

We request public comment on the application, which includes the applicant's proposed HCP, and on the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded under NEPA; to make this determination, we used our environmental action statement and low-effect screening form, both of which are also able for public review.

Background

Section 9 of the ESA, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. ''Take'' is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species], or to attempt to engage in such conduct'' (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits (ITPs) for endangered and threatened species, respectively, are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 50 CFR 17.32.

Applicant's Proposed Project

The applicant requests a 6-year ITP to take the federally endangered Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*). The applicant determined that take is reasonably certain to occur incidental to operation of 66 previously constructed wind turbines in Hamilton and Boone Counties, Iowa, covering approximately 19,690 acres of private land. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of the Indiana bat and northern long-eared bat through on-site minimization measures, and to provide habitat conservation measures for the two species to offset any impacts from project operations. The HCP provides on-site avoidance and minimization measures, which include turbine operational adjustments. The authorized level of take from the project is 18 Indiana bat and 18 northern long-eared bat over the 6-year permit duration. To offset the impacts of taking Indiana bats and northern long-eared bats, the applicant will implement one or more of the following mitigation options:

• Purchase credits from an approved conservation bank;

• Contribute to an in-lieu fee mitigation fund;

• Implement permittee-responsible mitigation project; or

• Contribute to a white-nose syndrome treatment fund, if available and approved by the Service.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Indiana bat and northern long-eared bat and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (December 2016). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, and 46.215). However, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

National Environmental Policy Act

Issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. The U.S. Fish and Wildlife Service (Service) has made a preliminary determination that the applicant's project and the proposed mitigation measures would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion, and the HCP would be low effect under our NEPA regulations at 43 CFR 46.205.

Next Steps

The Service will evaluate the application and the comments received to determine whether the permit application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit

issuance criteria of section 10(a)(l)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties on the proposed habitat conservation plan (HCP) and screening form during a 30-day public comment period (see **DATES**). Information and comments regarding the following topics are requested:

1. Whether the adaptive management, monitoring, and mitigation provisions in the proposed HCP are sufficient;
2. The requested 6-year ITP term;
3. Any threats to the Indiana bat and the northern long-eared bat that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or screening form;
4. Any new information on white-nose syndrome effects on the Indiana bat and the northern long-eared bat;
5. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
6. Any other information pertinent to evaluating the effects of the proposed action on the human environment, including those on the Indiana bat and the northern long-eared bat.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on *https://www.regulations.gov* all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1500–1508; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2023–02417 Filed 2–3–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–L14400000–ET0000–HAG23–0002; OROR–16756]

Notice of Application for Withdrawal Extension and Opportunity for Public Meeting for the Wheeler Creek Research Natural Area, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal application.

SUMMARY: The United States Department of Agriculture, United States Forest Service (USFS), has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior extend Public Land Order (PLO) No. 6476, as extended by PLO No. 7572, for an additional 20 years. PLO No. 6476 as extended withdrew 334 acres of National Forest System land from location and entry under the United States mining laws for 20 years, subject to valid existing rights, for protection of the Wheeler Creek Research Natural Area. This notice advises the public of a 90-day opportunity to comment on this application for a withdrawal extension and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by May 8, 2023.

ADDRESSES: All comments and meeting requests should be sent to the BLM Oregon/Washington State Director, P.O. Box 2965, Portland, Oregon 97208. The application and case file are available for public examination by interested persons by appointment at the BLM Public Room, 1220 SW 3rd Ave., 11th Floor, Portland, Oregon 97208 during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday except holidays. Please call 503–808–6001 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Luke Poff, Realty Specialist, BLM Oregon/Washington State Office, (503) 808–6249, by email at *lpoff@blm.gov,* or at the address noted earlier. The USFS can be reached at the Rogue River-Siskiyou National Forest Supervisor's Office, 3040 Biddle Road, Medford, Oregon 97504, (541) 618–2200.

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

SUPPLEMENTARY INFORMATION: The withdrawal established by PLO No. 6476 (48 FR 45395), as extended by PLO No. 7572 (68 FR 42127), is incorporated by reference. PLO No. 6476 withdrew 334 acres of National Forest System land in the Rogue River-Siskiyou National Forest from location and entry under the United States mining laws to protect the Wheeler Creek Research Natural Area, which was established to represent undisturbed examples of redwood (*Eucalyptus transcontinentalis*) at the northern limits of its range. The legal land description for PLO No. 6476 is on file with the BLM. Unless further extended, the withdrawal will expire on October 4, 2023. The USFS has requested that this withdrawal be extended for an additional 20 years.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately preserve the unique resources located at this site. There are no suitable alternative sites since preserving the unique resource within the lands described in PLO No. 6476 is the reason for the application for withdrawal extension.

No water rights will be needed to fulfill the purpose of this requested withdrawal extension.

Mining would be inconsistent with preservation of the area.

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 personally identifying information—may be made publicly available at any time. While you may ask the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting may be afforded in connection with the application for withdrawal extension. All interested persons who desire a public meeting for the purpose of being

heard on the application for this withdrawal extension must submit a written request to the State Director, BLM Oregon/Washington State Office at the address in the **ADDRESSES** section, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the date, time, and place will be published in the **Federal Register** and local newspapers and posted on the BLM website at: *www.blm.gov* at least 30 days before the scheduled date of the meeting. This withdrawal extension application will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

(Authority: 43 CFR 2310.3–1.)

Dustin Webster-Wharton,

Branch Chief, Lands, Minerals, Energy Resources—Acting.

[FR Doc. 2023–02464 Filed 2–3–23; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AK_FRN_MO4500168906]

Notice of Availability of the Final Supplemental Environmental Impact Statement for the Willow Master Development Plan, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Final Supplemental Environmental Impact Statement (EIS) for the Willow Master Development Plan (MDP), and by this notice is announcing its publication.

DATES: The BLM will issue a Record of Decision (ROD) for the project no earlier than 30 days from the date the Environmental Protection Agency publishes its Notice of Availability of the Final Supplemental EIS in the **Federal Register**.

ADDRESSES: To access the Final Supplemental EIS please visit the project's National Environmental Policy Act (NEPA) Register website:

- BLM's NEPA Register website: *https://eplanning.blm.gov/eplanning-ui/project/109410/510*

To request an electronic or paper copy of the Final SEIS, please reach out to:

- *Mail:* 222 W. 7th Avenue, Stop #13, Anchorage, Alaska 99513

Documents pertinent to this proposal, including the Draft SEIS, may be examined at the NEPA Register website. *https://eplanning.blm.gov/eplanning-ui/project/109410/510*

FOR FURTHER INFORMATION CONTACT: Carrie Cecil at (907) 271–1306, or by email at *ccecil@blm.gov,* on questions specific to NEPA or to have your name added to our mailing list. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Willow Master Development Plan Final Supplemental EIS analyzes an oil and gas development project proposed by ConocoPhillips Alaska, Inc. on Federal oil and gas leases it holds in the northeast region of the National Petroleum Reserve in Alaska. The Willow project was originally analyzed in the 2020 Willow MDP/Final EIS and authorized in a ROD issued in October 2020. In August 2021, the U.S. District Court for the District of Alaska vacated the ROD and remanded the matter to BLM to correct deficiencies in the EIS regarding analysis of foreign greenhouse gas emissions and screening of alternatives for detailed analysis. To comply with this ruling, the BLM made numerous updates to the analysis, including development of a new alternative (Alternative E) that substantially reduces infrastructure in the Teshekpuk Lake Special Area. The BLM has identified Alternative E and Module Delivery Option 3 as its preferred alternative. The Draft Supplemental EIS was issued on July 15, 2022, with opportunity for public comment. This Final Supplemental EIS complies with all applicable laws and current Department of the Interior guidance, including (but not limited to) NEPA, the Federal Land Policy and Management Act of 1976, the Alaska National Interest Lands Conservation Act, and the Naval Petroleum Reserves Production Act.

Authority: 40 CFR 1506.6(b).

Steven Cohn,

State Director, BLM Alaska.

[FR Doc. 2023–02344 Filed 2–3–23; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF INTERIOR

National Park Service

[NPS–IMR–BIBE–34285; PPIMBIBES0, PPMPSPD1Z.YM]

Determination of Eligibility for Consideration as Wilderness Areas, Big Bend National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of Determination of Wilderness Eligibility for Lands in Big Bend National Park.

SUMMARY: Pursuant to the Wilderness Act of 1964, and in accordance with National Park Service (NPS) *Management Policies 2006* (MP 2006), Section 6.2.1, the NPS has completed a Wilderness Eligibility Assessment to determine if lands within the North Rosillos (Harte Ranch) section of Big Bend National Park meet criteria indicating eligibility for preservation as wilderness. The NPS has concluded that 63,505 acres of the 67,135 acres assessed are found to be eligible for inclusion in the wilderness preservation system because they have wilderness criteria described in the Wilderness Act of 1964. This acreage represents 7.9% of the park's total 801,365 acres.

ADDRESSES: Maps of the lands assessed are on file at Big Bend National Park Headquarters, 1 Alsate Drive, Big Bend National Park, Texas.

FOR FURTHER INFORMATION CONTACT: Superintendent Bob Krumenaker, Big Bend National Park Superintendent, P.O. Box 129, Big Bend National Park, TX 79834. Phone (432) 477–1102, Email *bob_krumenaker@nps.gov.*

SUPPLEMENTARY INFORMATION: The Big Bend National Park staff reviewed the Primary Eligibility Criteria, Section 6.2.1.1 of MP 2006 to evaluate the wilderness eligibility of the North Rosillos area, which was authorized in 1980 to be added to the national park. All of the lands within the expanded boundary were assessed except for one large inholding of approximately 25,000 acres. Of the park's original 700,000 acres, 538,250 acres within the park had been recommended to U.S. Congress for formal wilderness designation in 1978 (67% of the park), and an additional 44,750 acres were recommended for potential wilderness (6% of the park).

Public notices announcing the park's intention to conduct this assessment were placed in the **Federal Register** May 3, 2000, and public meetings that were announced by mailings and newsletters were conducted in four Texas communities in May, 2000. While a draft memo called a Wilderness

Suitability Assessment was included as an appendix to the park's 2004 General Management Plan, the Assessment remained unfinished until 2022.

NPS will take no action that would diminish the wilderness eligibility of the area found to be possessing wilderness characteristics until the legislative process of wilderness designation has been completed, as required by Chapter 6 of MP 2006. All of the assessed lands remain subject to management in accordance with the NPS Organic Act and all other laws, Executive orders, regulations, and policies applicable to units of the National Park System; the 3,636 acres of ineligible lands will not be subject to the additional requirements of MP 2006 Chapter 6.

If/when a formal wilderness study is conducted to determine which of the eligible lands, if any, should be proposed for inclusion in the National Wilderness Preservation System, tribal consultation will be initiated, as will public review and comment under NEPA and the National Historic Preservation Act.

Charles F. Sams, III,

Director, National Park Service.

[FR Doc. 2023–02469 Filed 2–3–23; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–596]

COVID–19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities

AGENCY: United States International Trade Commission.

ACTION: Notice of investigation and scheduling of a public hearing.

SUMMARY: Following receipt on December 16, 2022, of a request from the U.S. Trade Representative (USTR), under the Tariff Act of 1930, the U.S. International Trade Commission (Commission) instituted Investigation No. 332–596, *COVID–19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities.* The USTR requested that the Commission conduct an investigation and prepare a report that analyzes the universe of existing COVID–19 diagnostics and therapeutics in relation to the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)—including the range of definitions for diagnostics and therapeutics; diagnostics and therapeutics covered by patents and those in development; an overview of production, distribution, and demand; information on market segmentation of global demand and consumption; and other information relevant to the discussion of TRIPS Agreement flexibilities.

DATES:

March 15, 2023: Deadline for filing requests to appear at the public hearing.

March 17, 2023: Deadline for filing prehearing briefs and statements.

March 22, 2023: Deadline for filing electronic copies of oral hearing statements.

March 29–30, 2023: Public hearing.

April 12, 2023: Deadline for filing posthearing briefs and statements.

May 5, 2023: Deadline for filing all other written submissions.

October 17, 2023: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Project Leader Philip Stone (202–205–3424 or *philip.stone@usitc.gov*) or Deputy Project Leader Dixie Downing (202–205–3164 or *dixie.downing@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact Brian Allen (202–205–3034 or *brian.allen@usitc.gov*) or William Gearhart (202–205–3091 or *william.gearhart@usitc.gov*) of the Commission's Office of the General Counsel. The media should contact Jennifer Andberg, Office of External Relations (202–205–3404 or *jennifer.andberg@usitc.gov*). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may be obtained by accessing its internet address (*https://www.usitc.gov*). 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.

SUPPLEMENTARY INFORMATION:

Background: As requested in the letter received from the USTR on December 16, 2022, the Commission has instituted an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) that analyzes the universe of existing COVID–19 diagnostics and therapeutics in relation to the TRIPS Agreement. Specifically, the USTR has requested that the Commission prepare a report that:

- Identifies the range of definitions for ''diagnostics'' and ''therapeutics'' in the medical field.
- Identifies and defines the universe of existing COVID–19 diagnostics and therapeutics covered by patents as well as COVID–19 diagnostics and therapeutics in development.
- Provides a broad overview of relevant COVID–19 diagnostics and therapeutics, including a description of the products and any intellectual property protections, and containing, to the extent practicable and where data are available:
  - An overview of production and distribution, including key components, the production processes, key producing countries, major firms, operational costs, a description of the supply chain, and the level of geographic diversification within the supply chain;
  - An overview of demand, including key demand factors, an assessment of where unmet demand exists, supply accumulation and distribution, and the impact of the relationship between testing and demand for treatment, if any exists;
  - Information on market segmentation of global demand and consumption, which may be delineated by low-income countries (LICs), lower middle-income countries (LMICs), upper middle-income countries (UMICs), and high-income countries (HICs);
  - Information on availability and pricing (or manufacturing costs in the cases where goods are donated) for COVID–19 diagnostics and therapeutics, if available; and
  - Global trade data for COVID–19 diagnostics and therapeutics or diagnostics and therapeutics in general if specific data are not available.
- Catalogs, to the extent practicable based on available information and a critical review of the literature:
  - The reasons for market segmentation and barriers to a more diverse geographical distribution of the global manufacturing industries for COVID–19 diagnostics and therapeutics;
  - The relationship between patent protection and innovation in the health sector and between patent protection and access to medicine in LICs, LMICs, UMICs, and HICs;
  - Actions taken by WTO Members to use or attempt to use compulsory

licenses for the production, importation, or exportation of pharmaceutical products and the outcomes of those actions, including the effect on product access, innovation, and global health;

○ A description of any alternatives to compulsory licensing available to WTO Members, such as voluntary licenses, including through the Medicines Patent Pool (MPP); multilateral programs, including the GlobalFund and United Nations Children's Fund (UNICEF); government-to-government programs; and private-sector donations; and

○ The effect, or lack thereof, of the MPP on access to COVID–19 diagnostics and therapeutics.

The USTR explicitly asked that the Commission solicit input on the above issues from a wide variety of participants, including foreign governments, non-governmental health advocates, organizations such as the MPP and Foundation for Innovative New Diagnostics (FIND), and manufacturers of diagnostics and therapeutics. The USTR stated that input on the following would be particularly salient:

- How the TRIPS Agreement promotes innovation in and/or limits access to COVID–19 diagnostics and therapeutics;
- Successes and challenges in using existing TRIPS flexibilities;
- The extent to which products not yet on the market, or new uses for existing products, could be affected by an extension of the Ministerial Decision to diagnostics and therapeutics;
- Whether and how existing TRIPS rules and flexibilities can be deployed to improve access to medicines;
- To what extent further clarifications of existing TRIPS flexibilities would be useful in improving access to medicines;
- The relationship between intellectual property protection and corporate research and development expenditures, taking into account other expenditures, such as share buybacks, dividends, and marketing;
- The relevance, if any, of the fact that diagnostic and therapeutic products used with respect to COVID–19 may also have application to other diseases; and
- The location of jobs associated with the manufacturing of diagnostics and therapeutics, including in the United States.

As requested by the USTR, the Commission will deliver the report on October 17, 2023. Since the USTR has indicated that USTR intends to make this report available to the public in its entirety, the Commission will not include confidential business or national security classified information in its report. However, as detailed below, participants may submit confidential information to the Commission to inform its understanding of these issues, and such information will be protected in accordance with the Commission's *Rules of Practice and Procedure.* Participants are strongly encouraged to provide any supporting data and information along with their views.

Public Hearing: A public hearing in connection with this investigation will be held beginning at 9:30 a.m., March 29, 2023, and continuing, if necessary, on March 30, 2023, in the Main Hearing Room of the U.S. International Trade Commission, 500 E Street SW, Washington DC 20436. The hearing can also be accessed remotely using the WebEx videoconference platform. A link to the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

Requests to appear at the hearing should be filed with the Secretary to the Commission no later than 5:15 p.m., March 15, 2023, in accordance with the requirements in the ''Written Submissions'' section below. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear as a witness via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may at their discretion for good cause shown, grant such requests. Requests to appear as a witness via videoconference due to illness or a positive COVID–19 test result may be submitted by 3 p.m. the business day prior to the hearing. All prehearing briefs and statements should be filed no later than 5:15 p.m., March 17, 2023. To facilitate the hearing, including the preparation of an accurate written public transcript of the hearing, oral testimony to be presented at the hearing must be submitted to the Commission electronically no later than noon, March 22, 2023. All posthearing briefs and statements should be filed no later than 5:15 p.m., April 12, 2023. Posthearing briefs and statements should address matters raised at the hearing. For a description of the different types of written briefs and statements, see the ''Definitions'' section below.

In the event that, as of the close of business on March 15, 2023, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should check the Commission website as indicated above for information concerning whether the hearing will be held.

Written submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received no later than 5:15 p.m., May 5, 2023. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802), or consult the Commission's Handbook on Filing Procedures.

Definitions of types of documents that may be filed; Requirements: In addition to requests to appear at the hearing, this notice provides for the possible filing of four types of documents: prehearing briefs, oral hearing statements, posthearing briefs, and other written submissions.

(1) *Prehearing briefs* refers to written materials relevant to the investigation and submitted in advance of the hearing, and includes written views on matters that are the subject of the investigation, supporting materials, and any other written materials that you consider will help the Commission in understanding your views. You should file a prehearing brief particularly if you plan to testify at the hearing on behalf of an industry group, company, or other organization, and wish to provide detailed views or information that will support or supplement your testimony.

(2) *Oral hearing statements (testimony)* refers to the actual oral statement that you intend to present at the hearing. Do not include any confidential business information (CBI) in that statement. If you plan to testify, you must file a copy of your oral statement by the date specified in this notice. This statement will allow Commissioners to understand your position in advance of the hearing and will also assist the court reporter in preparing an accurate transcript of the hearing (*e.g.,* names spelled correctly).

(3) *Posthearing briefs* refers to submissions filed after the hearing by persons who appeared at the hearing. Such briefs: (a) should be limited to matters that arose during the hearing; (b) should respond to any Commissioner and staff questions addressed to you at the hearing; (c) should clarify, amplify, or correct any statements you made at the hearing; and (d) may, at your option, address or rebut statements made by other participants in the hearing.

(4) *Other written submissions* refers to any other written submissions that interested persons wish to make, regardless of whether they appeared at the hearing, and may include new information or updates of information previously provided.

In accordance with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8) the document must identify on its cover (1) the investigation number and title and the type of document filed (*i.e.,* prehearing brief, oral statement of (name), posthearing brief, or written submission), (2) the name and signature of the person filing it, (3) the name of the organization that the submission is filed on behalf of, and (4) whether it contains CBI. If it contains CBI, it must comply with the marking and other requirements set out below in this notice relating to CBI. Submitters of written documents (other than oral hearing statements) are encouraged to include a short summary of their position or interest at the beginning of the document, and a table of contents when the document addresses multiple issues.

Confidential business information: Any submissions that contain CBI must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the CBI is clearly identified by means of brackets. All written submissions, except for CBI, will be made available for inspection by interested parties.

As requested by the USTR, the Commission will not include any CBI in its report. However, all information, including CBI, submitted in this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission, including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a way that would reveal the operations of the firm supplying the information.

Summaries of written submissions: Persons wishing to have a summary of their position included in the report should include a summary with their written submission on or before May 5, 2023, and should mark the summary as having been provided for that purpose. The summary should be clearly marked as ''summary for inclusion in the report'' at the top of the page. The summary may not exceed 500 words and should not include any CBI. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link where the written submission can be found.

By order of the Commission.

Issued: February 1, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2023–02466 Filed 2–3–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1292]

Certain Replacement Automotive Lamps II; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on January 24, 2023, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order directed to certain replacement automotive lamps imported, sold for importation, and/or sold after importation by respondents TYC Brother Industrial Co., Ltd. of Tainan, Taiwan, Genera Corporation (dba. TYC Genera) of Brea, California, LKQ Corporation of Chicago, Illinois, and Keystone Automotive Industries, Inc. of Exeter, Pennsylvania. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on January 24, 2023. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in

the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on February 23, 2023.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1292'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 31, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2023–02361 Filed 2–3–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Toxic Substances Control Act

On January 30, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of Illinois in the lawsuit entitled *United States* v. *Logan Square Aluminum Supply, Inc.* Civil Action No. 1:23–CV–00557.

The United States filed this lawsuit under the Toxic Substances Control Act. The United States' complaint seeks injunctive relief for violations of the regulations that govern residential property renovations. The consent decree requires the defendant to perform injunctive relief and implement a comprehensive management system to help ensure compliance with RRP Rule requirements.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Logan Square Aluminum Supply, Inc.* D.J. Ref. No. 90–5–1–1–12448. 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 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 consent decree 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 $40.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–02353 Filed 2–3–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0004]

Cadmium in Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget (OMB) approval of the information collection requirements specified in its Standard on Cadmium in Construction.

DATES: Comments must be submitted (postmarked, sent, or received) by April 7, 2023.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2012–0004) for the Information Collection Request (ICR). OSHA will place all comments, including personal information you provide, in the public docket without change, which may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651, *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (See 29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (See 29 U.S.C. 657).

The Standard on Cadmium in Construction (29 CFR 1926.1127) requires initial and periodic exposure monitoring and measurements, medical surveillance by physicians through biological monitoring and examinations, and recordkeeping and notification obligations. These requirements help protect workers from the adverse health effects that may result from their occupational involvement with Cadmium, and provide access to these records by OSHA, the National Institute for Occupational Safety and Health (NIOSH), the affected workers, and designated representatives. The major information collection requirements of this standard include the following elements of the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

The agency is requesting an increase in the burden hour estimate of 16,226 hours (from 34,000 hours to 50,226 hours). Upon further review, the agency realized that the requirement to develop and implement emergency plans under Emergency Situations (§ 1926.1127(h)) is a burden to employers. Additionally, the agency assumes that under this requirement 10% of employers must update their emergency plan as needed. Finally, under the Recordkeeping requirement (§ 1926.1127(n)), the agency added five minutes to collect and maintain records for exposure monitoring samples. OSHA is requesting to retain the same capital cost for operation and maintenance of $2,082,199.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Cadmium in Construction Standard (29 CFR 1926.1127).

OMB Control Number: 1218–0186.

Affected Public: Business or other for-profits; Federal Government; State, local, or Tribal government.

Number of Respondents: 10,000.

Number of Responses: 335,082.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 50,226.

Estimated Cost (Operation and Maintenance): $2,082,199.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. Please note: While OSHA's Docket Office is continuing to accept and process submissions by regular mail due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2012–0004). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506, *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed in Washington, DC, on January 31, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–02366 Filed 2–3–23; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 23–004]

NASA Planetary Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Advisory Committee. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, February 28, 2023, 10 a.m. to 6 p.m., and Wednesday, March 1, 2023, 10 a.m. to 6 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room 3D42, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will also be available telephonically and via WebEx.

For Tuesday, February 28, 2023, the WebEx information for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m1c312330093cb5f009b45ec32158c1c5.* The Webinar number is: 2764 488 2669 and the Webinar password is: PAC-feb28 (72203323 from phones). To join by telephone call, use US Toll: +1–415–527–5035 (Access Code: 276 448 82669).

For Wednesday, March 1, 2023, the WebEx information for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=md4b3e38b55c8c93900fe725cf4aa1cc3.* The Webinar number is: 2764 650 1097 and the Webinar password is: PAC-mar1 (72206272 from phones). To join by telephone call, use US Toll: +1–415–527–5035 (Access code: 276 465 01097).

Accessibility: Captioning will be provided for this meeting. We are committed to providing equal access to this meeting for all participants. If you need alternative formats or other reasonable accommodations, please contact Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

The agenda for the meeting includes the following topics:

—Planetary Science Division Update

—Planetary Science Division Research and Analysis Program Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–02443 Filed 2–3–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

The National Science Board's Committee on Strategy and Committee on Oversight hereby give notice of the scheduling of a videoconference 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, February 8, 2023, from 2:00–3:00 p.m. EST.

PLACE: This meeting will be held in person at NSF headquarters at 2415 Eisenhower Ave., Alexandria, VA 22314, and by videoconference through the National Science Foundation.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda of the teleconference is: Committee on Oversight Chair's remarks; Committee on Strategy Chair's remarks; Presentation and discussion of NSF's FY 2022 Annual Performance Plan and Report (APPR).

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Kathy Jacquart, *kjaquar@nsf.gov* (703) 292–7000. Meeting information and updates may be found at *www.nsf.gov/nsb.*

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2023–02565 Filed 2–2–23; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Awards and Facilities Committee (A&F) hereby gives notice of the scheduling of a videoconference 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: Tuesday, February 14, 2023, from 1:00–3:30 p.m. EST.

PLACE: This meeting will be held at NSF headquarters, 2145 Eisenhower Ave., Alexandria, VA 22314, and by videoconference.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Committee Chair's Opening Remarks; Schedule of Upcoming Context and Action Items; Information Item: Overview of NSF's Approach to Risk Management across the Major Facilities Portfolio.

Committee Chair's opening remarks; Action Item: Mid-scale Research Infrastructure Track 2 Portfolio Award; Information Item: Update on Antarctic Support Contract Request for Proposal; and Discussion: Investments Supporting U.S. Antarctic Program.

PORTIONS OPEN TO THE PUBLIC:

Open Session: 1:00–1:30 p.m.

Open agenda items: Committee Chair's Opening Remarks; Schedule of Upcoming Context and Action Items; Information Item: Overview of NSF's Approach to Risk Management across the Major Facilities Portfolio.

PORTIONS CLOSED TO THE PUBLIC:

Closed Session: 1:35–3:30 p.m.

Closed agenda items: Committee Chair's opening remarks; Action Item: Mid-scale Research Infrastructure Track 2 Portfolio Award; Information Item: Update on Antarctic Support Contract Request for Proposal; and Discussion: Investments Supporting U.S. Antarctic Program.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Michelle McCrackin, *mmccrack@nsf.gov,* (703) 292–7000. Meeting information and updates may be found at *www.nsf.gov/nsb.*

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2023–02571 Filed 2–2–23; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) Committee on Science and Engineering Policy (SEP) hereby gives notice of the scheduling of a videoconference 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, February 8, 2023, from 4:00 p.m.–5:00 p.m. EST.

PLACE: The meeting will be held by videoconference through the National Science Foundation.

STATUS: Open.

MATTERS TO BE CONSIDERED: Chair's opening remarks; discussion of potential SEP policy focus areas; discussion of near-term opportunities for leveraging data and analyses with these topics; discussion of opportunities for SEP to collaborate on shared policy priorities across the Board.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is Chris Blair, *cblair@nsf.gov,* 703/292–7000.

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2023–02527 Filed 2–2–23; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

The National Science Board's Awards and Facilities Committee (A&F) hereby gives notice of the scheduling of a videoconference 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: Friday, February 10, 2023, from 1:00–3:00 p.m. EST.

PLACE: This meeting will be held by videoconference through NSF headquarters, 2145 Eisenhower Ave., Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda of the teleconference is: Committee Chair's Opening Remarks; Information Item: Update on Implementation of Astronomy Decadal Survey recommendations; Context Item: National Center for Atmospheric Research Operations and Management Award renewal; Context Item: Ocean Observatories Initiative Operations and Management Award renewal; and Context Item: National Ecological Observatory Network Recompeted Operations and Management Award.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Michelle McCrackin, *mmccrack@nsf.gov,* (703) 292–7000. Meeting information and updates may be found at *www.nsf.gov/nsb.*

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2023–02567 Filed 2–2–23; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–39264; NRC–2023–0032]

Qal-Tek Associates LLC; Mayfield, Idaho Waste Handling and Temporary Storage Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a finding of no significant impact (FONSI) and accompanying environmental assessment (EA) for an application from Qal-Tek Associates LLC (QTA) to operate a waste handling and temporary storage facility near Mayfield, Idaho. Based on the analysis in the EA, the NRC staff has concluded that there would be no significant impacts to environmental resources from QTA's proposed activities at the proposed facility and, therefore, a FONSI is appropriate.

DATES: The EA and FONSI referenced in this document are available on February 6, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0032 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–2023–0032. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James Park, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6954, email: *James.Park@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering a license application from QTA, for operation of a waste handling and temporary storage facility, to be located near Mayfield, Idaho. By this application, QTA is seeking NRC authorization to receive, process, verify, package, temporarily store, and then ship low-level radioactive waste (LLRW) offsite for final disposal and also sealed sources and devices for offsite recycling or disposal as LLRW. As required by section 51.21 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Criteria for and identification of licensing and regulatory actions requiring environmental assessments,'' the NRC prepared an EA that documents the NRC staff's independent evaluation of the potential environmental impacts of QTA's proposed activities at the Mayfield facility. Based on the analysis in the EA, the NRC staff has concluded that there would be no significant impacts to environmental resources from QTA's proposed activities and, therefore, a FONSI is appropriate.

II. Summary of Environmental Assessment

Description of the Proposed Action

QTA proposes to operate a waste processing and temporary storage facility near Mayfield, Idaho, where LLRW sent from NRC or Agreement State licensees, either by road or rail, would be received, verified, processed, and potentially stored for up to 180 days prior to being shipped offsite for final dispositioning. QTA anticipates that most of its handling operations would be performed with the waste materials in their original transportation packaging. However, in some situations, QTA expects to process and repackage waste when certain individual bulk waste packages do not meet the intended disposal facility's waste acceptance criteria or when it is advantageous to combine wastes, when allowed, into a larger package prior to shipment for offsite disposal. QTA also anticipates receiving packages containing Class A through Class C [as defined in 10 CFR 61.55(a)(2)(i) through (iii)] low-activity sealed sources and devices for consolidation and appropriate offsite disposition (*i.e.,* either recycling or disposal).

The buildings that QTA would use for its proposed activities are enclosed with security fencing to restrict unauthorized access. A rail right-of-way passes through one side of one building at the site and a vehicle right-of-way runs down the adjacent side of a connected building. Access to both right-of-way passages would be controlled by motorized, lockable roll-up doors. QTA intends to replace the existing trailer offices at the site with new trailer units that would provide administrative offices and access to the buildings. QTA would also replace fencing as needed at the site, add 121.9 meters (m) [400 feet (ft)] of fencing to enclose the controlled storage areas, pour a 15.2 m by 15.2 m (50 ft by 50 ft) concrete storage pad west of the site buildings, and conduct limiting trenching for upgraded utilities. Six to eight employees would work full-time at the site, and three employees would work there part-time.

QTA anticipates receiving Class A through Class C sealed sources and devices and Class A soil, debris, and water wastes from U.S. nuclear power plants, research and accelerator facilities, and other commercial licensees as well as cleanup and decommissioning wastes from Federal cleanup projects. QTA estimates that it would receive an average of 19,272 cubic meters (25,207 cubic yards) of waste materials annually over the five-year period from 2022 to 2026, with most waste shipments coming in bulk containers (*e.g.,* gondola railcars, intermodal containers, and large soft-sided bags). Other wastes would likely be received in 208.1-liter (55-gallon) drums. QTA estimates that the site would receive, on a monthly basis, approximately 50 waste shipments by truck and approximately 12 shipments by rail.

After QTA's verification and processing of the incoming bulk LLRW shipments and short-term onsite storage, when applicable, the wastes would be transported offsite for final disposal. Possible final disposal sites for commercially-generated LLRW are: (1) the U.S. Ecology LLRW disposal site in Richland, Washington; (2) the EnergySolutions LLRW disposal site in Clive, Utah; and (3) the Waste Control Specialists (WCS) LLRW disposal site in Andrews County, Texas (TX). Disposal at a non-LLRW disposal site (*e.g.,* the U.S. Ecology-Idaho (USEI) Resource Conservation and Recovery Act Subtitle C landfill in Grand View, Idaho, would require prior NRC approval on a case-by-case basis for each disposal action in accordance with the NRC's alternate disposal request review process. Wastes received from the U.S. Department of Energy (DOE) would be disposed only at locations authorized to receive DOE wastes for final disposal (*e.g.,* the WCS site in Andrews County, TX). Prior to shipment, QTA would ensure that the wastes transported offsite for final disposal meet the waste acceptance criteria for the disposal site. QTA estimates that approximately 85 truck shipments per month would transport LLRW to disposal sites over a 5-year period of 2022 to 2026.

For sealed sources and devices arriving at QTA's facility in packages or containers, QTA would either approve these for offsite disposal or accept them for sorting and dispositioning. QTA would store sealed sources and devices in a dedicated onsite Controlled Storage Area. Sealed sources and devices would be transferred either to USEI for final disposal, if the devices are exempt under 10 CFR parts 30 or 40, or to an NRC- or Agreement State-licensed LLRW disposal site or recycler if they are classified as Class A through Class C LLRW.

Need for the Proposed Action

The proposed action would allow QTA to use the proposed Mayfield facility as a LLRW verification and temporary storage facility prior to the dispositioning of these wastes at sites authorized to accept these types of materials. Additionally, QTA expects that its proposed facility would serve as a waste characterization facility for licensees that want to outsource waste characterization services and the dispositioning of their sealed sources.

Environmental Impacts of the Proposed Action

The NRC staff has assessed the potential environmental impacts from QTA's proposed waste handling and temporary storage activities at the Mayfield site. The NRC staff assessed the impacts of the proposed action on land use; historical and cultural resources; visual and scenic resources; climatology, meteorology, and air quality; geology and soils; water resources; ecological resources; socioeconomics; noise; traffic and transportation; public and occupational health and safety; and waste management. The NRC staff determined that impacts to these environmental resource areas would be minimal. With respect to ecological resources, the NRC staff determined that the proposed action would have no effect on listed endangered or threatened species or their critical habitat. The NRC staff also determined that no historical properties would be affected by the undertaking (*i.e.,* QTA's proposed action).

Additionally, the NRC staff concluded the environmental consequences from a postulated terrorist attack at the proposed Mayfield facility would not result in a significant impact to the environment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Under the no-action alternative, the NRC would not grant the requested license to QTA and the current operations at the Mayfield site would continue. USEI currently uses the site for the occasional offloading of rail tankers containing bulk liquids that arrive at the Mayfield facility. U.S. Ecology receives tanker loads of both hazardous and non-hazardous liquids for treatment and ultimate disposal at its USEI Grand View, Idaho facility. Rail tankers containing bulk liquids are pumped into awaiting tanker trucks for transportation to the landfill.

Additionally, under the no-action alternative, NRC and NRC Agreement State licensees would continue to use their existing procedures and processes for dispositioning LLRW. These procedures and processes would include the temporary onsite storage of such wastes and the testing and verification of these wastes prior to their shipment offsite for final disposal.

The NRC staff does not expect a change in environmental impacts under the no-action alternative given that disposal of LLRW in accordance with the Federal and State regulations and requirements ensure the protection of public health and safety and the environment. The NRC concluded that environmental impacts from the no-action alternative would be not significant.

Agencies and Persons Consulted

On November 17, 2022, the staff provided a copy of the draft EA to the Idaho Department of Environmental Quality for its review and comment. In its December 16, 2022, response letter, the State noted that it had no comments on the draft document.

III. Finding of No Significant Impact

Based on its review of the proposed action, in accordance with 10 CFR part 51, the NRC staff has determined that issuance of a materials license to QTA, authorizing LLRW and sealed sources and devices receipt, verification, processing and temporary storage activities at the facility site near Mayfield, Idaho, would not significantly affect the quality of the human environment. Approval of the proposed action would result in minimal ground-disturbing activities at the site, and waste receipt, handling, and processing activities would be conducted to keep occupational and radiological doses below the applicable limits in 10 CFR part 20. On the basis of the EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a FONSI is appropriate. In accordance with 10 CFR 51.32(a)(4), this FONSI incorporates the EA set forth in this notice by reference.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No.
QTA's License Application, dated February 11, 2021	ML23030B799.
QTA's responses to NRC Request for Additional Information (RAI), dated July 23, 2021	ML22004A136 (Package).
QTA's RAI response, dated February 18, 2022	ML22133A005.
QTA's Response to NRC's request for RAI clarifications, dated March 8, 2022	ML22123A201 and ML22123A209.
NRC Staff ''Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a)''.	ML18296A068.
NRC's request for review and comment on Draft EA, dated November 17, 2022	ML23011A268.
State of Idaho Department of Environmental Quality's Letter providing comments on the Draft EA, dated December 16, 2022.	ML23011A261.

Dated: January 31, 2023.

For the Nuclear Regulatory Commission.

Robert Sun,

Acting Chief, Environmental Review Materials Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2023–02363 Filed 2–3–23; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Health Benefits Election Form, OPM 2809, 3206–0141

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on the renewal of an expiring information collection request (ICR), without change, Health Benefits Election Form (OPM 2809).

DATES: Comments are encouraged and will be accepted until April 7, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0141). The Office of

Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

OPM 2809, Health Benefits Election, is used by annuitants and former spouses to elect, cancel, suspend, or change health benefits enrollment during periods other than open season.

Analysis

Agency: Federal Employee Insurance Operations, Office of Personnel Management.

Title: Health Benefits Election Form.

OMB Number: 3206–0141.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 30,000 (Forms = 20,000; Verbal/Written collection = 10,000).

Estimated Time per Respondent: 30 minutes (Telephone/Mail collection = 10 mins).

Total Burden Hours: 11,667 hours.

U.S. Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2023–02480 Filed 2–3–23; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0121, Application for Deferred Retirement (for Persons Separated On or After October 1, 1956), OPM 1496A

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR), Application for Deferred Retirement (for Persons Separated on or after October 1, 1956), OPM 1496A. The revisions include: Revised instructions for hearing impaired users to utilize the Federal Relay Service by dialing 711 or their local communications provider to reach a Communications Assistant; Instructions to attach Internal Revenue Service (IRS) Form W–4P (version 2022 or later); and, Updated Retirement Information Office hours of operation.

DATES: Comments are encouraged and will be accepted until April 7, 2023.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

—Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

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

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at 202–936–0401.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0121). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

OPM Form 1496A is used by eligible former Federal employees to apply for a deferred Civil Service annuity.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application for Deferred Retirement (for persons separated on or after October 1, 1956).

OMB Number: 3206–0121.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 2,800.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 2,800.

Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

[FR Doc. 2023–02481 Filed 2–3–23; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96781; File No. SR–NASDAQ–2022–057]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Approving of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Listing Rule 5732 To Provide Listing Standards for Contingent Value Rights on Nasdaq Global Market

January 31, 2023.

I. Introduction

On October 17, 2022, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Listing Rule 5732 to provide listing standards for Contingent Value

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Rights (''CVRs'') on Nasdaq Global Market. The proposed rule change was published for comment in the **Federal Register** on November 3, 2022.[3] On December 15, 2022, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[4] On January 26, 2023, the Exchange filed Amendment No. 1 to the proposed rule change.[5] The Commission received no comment letters on the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment No. 1

Nasdaq proposes to adopt Listing Rule 5732 to provide listing standards for Price-Based and Event-Based Contingent Value Rights (each a ''CVR'' and collectively, ''CVRs'') on Nasdaq Global Market, which are unsecured obligations of the issuer providing for a possible cash payment at maturity.[6] As discussed in more detail below, CVRs provide for a possible cash payment for a ''Price-Based CVR'' at maturity based upon the price performance of an affiliate's equity security or for an ''Event-Based CVR'', within a specified time period, upon the occurrence of a specified event or events related to the business of the issuer or an affiliate of the issuer.[7]

Specifically, under the proposal, at maturity, the holder of a Price-Based CVR is entitled to a cash payment if the average market price of the issuer's related affiliate's equity security is less than a pre-set target price.[8] The proposal states that the target price is typically established at the time the Price-Based CVR is issued.[9] Conversely, should the average market price of the related equity security equal or exceed the target price, the Price-Based CVR would expire worthless.[10] In its proposal, Nasdaq states that Price-Based CVRs are generally distributed to shareholders of an acquired company who are receiving shares of the acquirer as acquisition consideration.[11] Nasdaq further states that Price-Based CVRs provide the acquiree's shareholders with some medium-term protection against poor stock price performance of the shares of the acquirer by guaranteeing them a specified cash payment if the acquirer's average stock price is below a specified level at the time of maturity of the Price-Based CVR.[12]

The Exchange states that Event-Based CVRs are also typically issued to the shareholders of an acquired entity as consideration in an acquisition transaction.[13] Under the proposal, Event-Based CVRs entitle their holders to receive a cash payment upon the occurrence of a specified event or events related to the business of the issuer or an affiliate of the issuer within a specified period of time that is determined at the time the Event-Based CVR is issued.[14] In contrast, should the specified event or events not occur within the specified time period, the Event-based CVR would expire worthless.[15] According to the Exchange, an Event-Based CVR provides the shareholders of the acquiree an additional interest in the medium-term performance of the merged entity upon occurrence of its specified event(s).[16]

For initial listing of CVRs on the Nasdaq Global Market, the issuer must have assets in excess of $100 million, satisfy the requirement of Nasdaq Rule 5315(f)(3)(A)[17] or have at least $200 million in global market capitalization and satisfy the requirement of Rule 5315(f)(2)(A) and (B)[18] related to Market Value of Unrestricted Publicly Held Shares. In order to list a CVR, an issuer of the CVR must not be considered non-compliant with the listing standards of the national securities exchange where either: (i) the equity security to whose price performance a Price-Based CVR is linked or the issuer's common stock is listed, or (ii) in an Event-Based CVR where the primary equity security is linked or the issuer's common stock is listed.[19]

The CVR issue must also have a minimum of 400 holders; a minimum of 1 million CVRs outstanding; a minimum of $4 million market value; a minimum life of one year; and a minimum $4.00 bid price.[20] Nasdaq states that while these distribution and liquidity standards applicable to CVRs can help to ensure there should be adequate depth, liquidity, and investor interest to support an exchange listing, the issuer requirements, that are described above, will provide some minimum level of indicia that the issuer of a CVR should be able to meet any future payment obligations to shareholders of Event-Based, as well as Price-Based, CVRs pursuant to the applicable CVR agreement.[21]

Prior to listing a CVR under the proposed rule, Nasdaq would issue a circular as described in proposed Nasdaq Rule 5732(c) reminding its members that because CVRs have certain unique characteristics investors should be afforded an explanation of such special characteristics and risks attendant to trading thereof, as well as the Exchange's know-your-customer, suitability, and other rules applicable thereto.[22] Nasdaq will suggest to its members that transactions in CVRs be recommended only to investors whose accounts have been approved for

[3] *See* Securities Exchange Act Release No. 96176 (October 28, 2022), 87 FR 66337 (''Notice'').

[4] *See* Securities Exchange Act Release No. 96509, 87 FR 78166 (December 21, 2022) (extending the time period to February 1, 2023).

[5] In Amendment No. 1, the Exchange revised the proposal to clarify that: (1) the Exchange will require the public disclosure of all the material terms of the CVR before listing; (2) under the CVR Continued Listing Standards of Nasdaq Proposed Rule 5732(d)(3), the $1 million market value threshold requirement refers to Publicly Held Shares; (3) to initially list a CVR under Nasdaq Proposed Rule 5732(a)(4), the issuer's common stock must be compliant with the listing standards of the national securities exchange upon which the common stock is listed, irrespective of whether listing a Price-Based or Event-Based CVR; and (4) in Nasdaq Proposed Rule 5732(d)(4), for Event-Based CVRs, the primary equity security to which the Event-Based CVR is linked and the issuer's common stock must remain listed. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nasdaq-2022-057/srnasdaq2022057.htm. See also* notes 6–7 and accompanying text for definitions of Price-Based and Event Based CVRs.

[6] According to the Exchange, the proposed rule change is based on Section 703.18 of the NYSE Listed Company Manual, related to initial listing of CVRs, and the provisions of Section 802.01D applicable to ''Specialized Securities'', related to continued listing of CVRs. *See* Securities Exchange Act Release No. 26072 (May 30, 1990), 55 FR 23166 (June 6, 1990) (SR–NYSE–90–15) (order approving original listing standards for CVRs (Priced-Based) on the Exchange); Securities Exchange Act Release No. 86651 (August 13, 2019), 84 FR 42967 (August 19, 2019) (SR–NYSE–2019–14) (order approving the listing of Event-Based CVRs on the Exchange).

[7] *See* Nasdaq Proposed Rule 5732.

[8] See Nasdaq Proposed Rule 5732.

[9] *See id.*

[10] *See id.*

[11] *See* Notice, *supra* note 3, 87 FR at 66337.

[12] *See id.*

[13] *See id.*

[14] *See id;* Nasdaq Proposed Rule 5732.

[15] *See* Nasdaq Proposed Rule 5732.

[16] *See* Notice, *supra* note 3, 87 FR at 66337.

[17] Specifically, to satisfy Nasdaq Rule 5315(f)(3)(A) a Company, other than a closed end management investment company, must aggregate income from continuing operations before income taxes of at least $11 million over the prior three fiscal years, (ii) positive income from continuing operations before income taxes in each of the prior three fiscal years, and (iii) at least $2.2 million income from continuing operations before income taxes in each of the two most recent fiscal years.

[18] *See* Nasdaq Rule 5315(f)(2)(A) and (B) requiring (i) a Market Value of at least $110 million; or (ii) a Market Value of at least $100 million, if the Company has stockholders' equity of at least $110 million.

[19] *See* Amendment No. 1, *supra* note 5, at 3.

[20] *See id.*

[21] *See* Notice, *supra* note 3, 87 FR at 66338.

[22] *See id.;* Nasdaq Proposed Rule 5732(c).

options trading or whom the member firm has otherwise ascertained that CVRs are suitable for.[23] In its proposal, Nasdaq stated that like other financial products with unique features trading on the Exchange, CVRs combine features of debt, equity, and securities derivative instruments.[24] Consequently, Nasdaq states this product may be more complex than straight stock, bond, or equity warrants and that the distribution of the information circular will help to alert members to the special disclosure and suitability obligations that apply to CVRs and that are relevant to making recommendation for investors in CVRs.[25]

Prior to listing a Contingent Value Right, Nasdaq will require that all material terms of the Contingent Value Right be publicly disclosed.[26] While listed, the issuer of an Event-Based CVR will be required to make public disclosure: (i) upon the occurrence of any event that must occur as a condition to the issuer's obligation to make a cash payment with respect to the CVR (or if such an event is deemed to have occurred pursuant to the terms of the documents governing the CVR); or (ii) at any such time as it becomes clear that a condition to the cash payment with respect to the CVR has not been met as required by the documents governing the terms of the CVR.[27]

Nasdaq will delist a CVR pursuant to the provisions of the Listing Rule 5800 Series if the CVR fails to maintain any of the following: (1) at least 100,000 Publicly Held Shares; (2) at least 100 Holders; or (3) at least $1 million Market Value of Publicly Held Shares.[28] In addition, Nasdaq will promptly delist any CVR if the issuer's common stock, the equity security to whose price performance a Price-Based CVR is linked, or the primary equity security to which an Event-Based CVR is linked, ceases to be listed on a national securities exchange.[29] Also, Nasdaq will delist an Event-Based CVR once the occurrence of the specified event or events related to the business of the issuer or an affiliate of the issuer has occurred or once it goes beyond the time that the specified event or events should have occurred.[30]

The Exchange will rely on its existing trading surveillances, administered by the Exchange, or the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[31] The Exchange will monitor activity in CVRs to identify and deter any potential improper trading activity in such securities and monitor CVRs alongside the common equity securities of the issuer or its affiliates, as applicable.[32] In addition, the Exchange will adopt enhanced surveillance procedures if necessary.[33] In addition, if the underlying security is listed and traded on another U.S. national securities exchange, Nasdaq will communicate as needed and may obtain information regarding trading from markets and other entities that are members of Intermarket Surveillance Group.[34]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[35] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[36] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is an activity of critical importance to financial markets and the investing public. Listing standards, among other things, serve as a means for an exchange to screen issuers and to provide listed status only to bona fide companies that have or will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets. Meaningful listing standards are especially important given the expectations of investors regarding the nature of securities that have achieved an exchange listing and the role of an exchange in overseeing and assuring compliance with its listing standards. Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained.

For the reasons discussed below, the Commission believes that the Exchange's proposed listing standards, as modified by Amendment No. 1, are consistent with the Act and in particular with Section 6(b)(5). The Exchange, as described above, has proposed to adopt listing standards for Price-Based CVRs and Event-Based CVRs on NASDAQ Global Market. CVRs are typically used as consideration offered to the shareholders of the target company in a business combination transaction, such as a merger or an exchange offer. As the Commission has previously stated CVRs have unique characteristics that combine features of debt, equity and securities derivatives instruments.[37] The Commission believes that the Exchange's proposal to establish listing criteria for CVRs should adequately address the unique concerns raised by the listing of such securities and should help to ensure that only substantial companies capable of meeting their financial obligations can list such CVRs on the Exchange, thereby protecting investors and the public interest consistent with the Act. The proposal, as modified by Amendment No. 1, should also, consistent with the Act, aid the Exchange in maintaining fair and orderly markets for CVRs and

[23] *See* Notice, *supra* note 3, 87 FR at 66338.

[24] *See id.*

[25] *See* Notice, *supra* note 3, 87 FR at 66338.

[26] *See* Amendment No. 1, *supra* note 5, at 3.

[27] *See* Nasdaq Rule IM–5250–1. Disclosure of Material Information, among other things, requires Nasdaq companies to notify Nasdaq's MarketWatch Department prior to the distribution of certain material news at least 10 minutes prior to public announcement of the news when the public release of the information is made from 7:00 a.m. to 8:00 p.m. ET. Trading halts are instituted, among other reasons, to ensure that material information is fairly and adequately disseminated to the investing public and the marketplace, and to provide investors with the opportunity to evaluate the information in making investment decisions. *See also* Notice, *supra* note 3, 87 FR at 66338,

[28] *See* Notice, *supra* note 3, 87 FR at 66338; Nasdaq Proposed Rule 5732(d); Amendment No. 1, *supra* note 5, at 3.

[29] *See* Amendment No. 1, *supra* note 5, at 3–4.

[30] *See id.*

[31] *See* Notice, *supra* note 3, 87 FR at 66338.

[32] *See id.*

[33] *See id.*

[34] *See* Notice, *supra* note 3, 87 FR at 66338, n. 8 and accompanying text.

[35] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 15 U.S.C. 78f(b)(5).

[37] *See* Securities Exchange Act Release No. 86651 (August 13, 2019), 84 FR 42967 (August 19, 2019) (SR–NYSE–2019–14) (order approving the listing of Event-Based CVRs on the Exchange); *See also* Securities Exchange Act Release No. 28072 (May 30, 1990), 55 FR 23166 (June 6, 1990) (SR–NYSE–90–15) (order approving original listing standards for CVRs (Priced-Based) on the Exchange).

preventing fraudulent and manipulative acts and practices.

The Commission believes the Exchange's proposed quantitative listing standards should help to ensure that only substantial companies capable of meeting their financial obligations issue CVRs. This is important in light of the contingent financial obligations created by these instruments, and should serve to protect investors and the public interest by ensuring that the companies listing Price-Based CVRs and Event-Based CVRs are of substantial size, which can help to indicate such companies have sufficient financial means to meet their settlement obligations. Specifically, an issuer of a CVR must (1) have assets in excess of $100 million, (2) must satisfy Rule 5315(f)(3)(A) or have at least $200,000,000 in global market capitalization, (3) must satisfy the Market Value of Unrestricted Publicly Held Shares requirement of Rule 5315(f)(2)(A) and (B) requiring (i) a Market Value of at least $110 million; or (ii) a Market Value of at least $100 million, if the Company has stockholders' equity of at least $110 million.[38] Furthermore, the CVR issue must have a minimum of 400 holders; a minimum of 1 million CVRs outstanding; a minimum of $4 million market value; a minimum life of one year; and a minimum $4.00 bid price. The Commission believes these distribution and liquidity standards applicable to CVRs can help to ensure adequate depth, liquidity, and investor interest to support an exchange listing. The Commission also believes the issuer requirements will provide some minimum level of indicia that the issuer of a CVR should be able to meet any future payment obligations to shareholders of CVRs pursuant to the applicable CVR agreement. Furthermore, the proposed listing standards are substantially similar to the CVR listing standards on New York Stock Exchange (''NYSE).[39]

In addition, in order to list a CVR, an issuer of the CVR must not be considered non-compliant with the listing standards of the national securities exchange where either: (i) the equity security to whose price performance a Price-Based CVR is linked or the issuer's common stock is listed, or (ii) in an Event-Based CVR where the primary equity security is linked or the issuer's common stock is listed.[40] The Commission believes that this requirement protects investors and the public interest in accordance with Section 6(b)(5) of the Act in that it would not permit a CVR to be listed on the Exchange if the listed company is below compliance with listing standards, and therefore potentially subject to delisting, on the national securities exchange where its common stock, or equity security linked to the CVR, was listed.

Once listed, Nasdaq will delist a CVR pursuant to the provisions of the Listing Rule 5800 Series if the CVR fails to maintain any of the following: (1) at least 100,000 Publicly Held Shares; (2) at least 100 Holders; or (3) at least $1 million Market Value of Publicly Held Shares. In addition, Nasdaq will promptly delist any CVR if the issuer's common stock, the equity security to whose price performance a Price-Based CVR is linked, or the primary equity security to which an Event-Based CVR is linked, ceases to be listed on a national securities exchange.[41] Additionally, Nasdaq would delist an Event-Based CVR once the occurrence of the specified event or events related to the business of the issuer or an affiliate of the issuer has occurred or once it goes beyond the time that the specified event or events should have occurred. The Commission believes the proposed delisting standards, which are also substantially similar to those of NYSE,[42] provide some indicia of a minimum level of liquidity for continued listing of CVRs. Further, the requirement that Price-Based CVRs and Event-Based CVRs be promptly delisted if either the common stock of the issuer of the CVR or the related linked equity security ceases to be listed on a national securities exchange is consistent with investor protection and the public interest in that it helps to ensure that the issuer of the CVR is meeting the continued quantitative and qualitative listing standards of a national securities exchange on an ongoing basis while the CVR is trading on the Exchange. These additional requirements for delisting also will protect investors by helping to maintain fair and orderly markets by ensuring that a CVR will not remain listed when the common stock of the issuer or any linked equity security to a CVR is delisted. For similar reasons, the requirement to delist an Event-Based CVR, when the event has occurred or the time period for the event or events has passed will also further investor protection and fair and orderly markets since any payout on the CVR should be conditioned on such events.

In addition, the proposed rule change would require that, prior to listing a Price-Based or Event-Based CVR, an issuer be required to publicly disclose all material terms of the CVR.[43] The proposed rule change would also require the issuer of an Event-Based CVR to make public disclosure, in accordance with the provisions of Rule 5250(b) and IM–5250–1, upon the occurrence of any event that must occur as a condition to the issuer's obligation to make a cash payment with respect to the CVR (or if such an event is deemed to have occurred pursuant to the terms of the documents governing the CVR) or at any such time as it becomes clear that a condition to the cash payment with respect to the CVR has not been met as required by the documents governing the terms of the CVR.[44] The Commission believes that these disclosure requirements should help to protect investors and the public interest by ensuring that investors have sufficient information to make investment decisions relating to CVRs. The Commission further believes that the requirement to publicly disclose whether a specified event has occurred or failed to occur should help to protect investors and prevent fraudulent manipulative acts and practices by ensuring that investors and market participants will have access to important information needed to trade, and make investment decisions in, the CVRs and that such information will be publicly available to all investors at the same time.[45] Notification to the Exchange, in accordance with the requirements of Nasdaq Rule 5250(b) and Nasdaq Rule IM–5250–1, will also provide the Exchange with the information necessary for it to determine whether a temporary trading halt may be appropriate for an Event-

[38] *See* note 17–18, *supra,* and accompanying text.

[39] *See* Section 703.18 of the NYSE Listed Company Manual. *See also* Securities Exchange Act Release No. 85812 (May 9, 2019), 84 FR 21861 (May 15, 2019) (SR–NYSE–2019–14) (Notice of Filing of proposed rule change to permit the listing of Event-Based CVRs on the Exchange).

[40] *See* Amendment No. 1, *supra* note 5, at 3. The issuer of a CVR also has to comply with the corporate governance requirements of the national securities exchange where its common stock or equity security linked to the CVR is listed. An issuer of a CVR may not be below compliance with these corporate governance standards, as well as the quantitative continued listing standards, for its common stock or equity security on the national securities exchange where such security is listed at the time of the listing of the CVR. This should provide additional protections for investors in both Event-Based and Price-Based CVRs.

[41] *See* Amendment No. 1, *supra* note 5, at 3–4.

[42] *See* Section 703.18 of the NYSE Listed Company Manual.

[43] *See* Amendment No. 1, *supra* note 5, at 3.

[44] *See* Notice, *supra* note 3, 87 FR at 66338; Nasdaq Proposed Rule 5732(b).

[45] Nasdaq Rule 5250 requires listed companies to disclose any material information that would reasonably be expected to affect the value of its securities or influence investor decisions.

Based or Price-Based CVR in order to ensure fair and orderly markets.[46]

Under the Exchange's proposal, as described above, Event-Based CVRs must be based upon the occurrence of a specified event or events related to the business of the issuer or an affiliate of the issuer. The Commission believes that requiring an Event-Based CVR to be related to the business of the issuer or an affiliate of the issuer is an essential requirement that will help to ensure that the company will have the information necessary to determine if the required events have occurred or not occurred within any required time frames under the terms of the CVR and make timely required public disclosure.[47]

The Exchange's proposed rule for listing CVRs also addresses the additional regulatory concerns raised by these products. Like other financial products with unique features trading on the Exchange, as noted above, CVRs combine features of debt, equity, and securities derivative instruments. As a result, this product may be more complex than straight stock, bond, or equity warrants. The Exchange has proposed to distribute an information circular apprising member firms of the special characteristics, risks, and suitability obligations associated with CVRs.[48] The Commission believes distribution of this information circular will help to alert members to the special characteristics, risks, disclosure and suitability obligations that apply to CVRs and the attendant requirements of members when making recommendations to investors to purchase CVRs.[49]

The Exchange has represented that it will also monitor activity in CVRs to identify and deter any potential improper trading activity in such securities and will monitor CVRs alongside the common equity securities of the issuer or its affiliates, as applicable.[50] The Exchange states it will adopt enhanced surveillance procedures to do so if necessary.[51] Since news and information concerning a company and the linked equity security and issuer's common stock can have an impact on the company's CVRs, this surveillance should help to monitor the trading activity in the CVRs. To the extent the common equity security is traded on another national securities exchange, these procedures are expected to ensure proper coordination.[52] The Commission believes that these safeguards and standards should help to ensure that the listing, and continued listing, of any CVRs on the Exchange will be consistent with investor protection, the public interest, and the maintenance of fair and orderly markets. In this regard, the Commission expects the Exchange to thoroughly review any potential listing of Price-Based and Event-Based CVRs to ensure that its listing standards have been met and continue to be met, as well as to monitor trading in the Event-Based and Price-Based CVRs and related common stock or equity security of the issuer.

Based on the above, the Commission believes the proposed rule change, as modified by Amendment no. 1, is reasonable and should provide for the listing of CVRs with baseline investor protection and other standards. The Commission believes, as discussed above, that the Exchange has developed sufficient standards to allow the listing of both Price-Based CVRs and Event Based CVRs on the Exchange and finds the proposal consistent with the requirements set forth under the Act, and in particular, Section 6(b)(5).

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2022–057 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–NASDAQ–2022–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2022–057, and should be submitted on or before February 27, 2023.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. As discussed above, in Amendment No. 1, the Exchange revised the proposal to clarify that: (1) the Exchange will require the public

[46] Notifications of material news to the Exchange at least 10 minutes prior to its release to the public when the information is released between 7:00 a.m. to 8:00 p.m. ET allows Nasdaq to determine if a trading halt is necessary in accordance with Nasdaq Rule IM–5250–1. As stated by Nasdaq, trading halts ''ensure that material information is fairly and adequately disseminated to the investing public and the marketplace, and to provide investors with the opportunity to evaluate the information in making an investment decision.'' *See* Notice, *supra* note 3, 87 FR at 66338 n. 7.

[47] The Commission notes that under the Exchange's rules, Priced-Based CVRs are similarly related to the performance of an affiliate's equity security.

[48] *See* Nasdaq Proposed Rule 5732(c).

[49] For example, the circular states, among other things, that it is suggested that transactions in CVRs be recommended only to investors whose accounts have been approved for options trading and that members recommending transactions in CVRs should have a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that the customer may reasonably be expected to be capable of evaluating the risks and special characteristics, and is financially able to bear the risks, of a recommendation to invest in CVRs. *See id.*

[50] As noted above, the Exchange will rely on its existing trading surveillances, administered by the Exchange, or the FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. *See* Note 31, *supra.*

[51] *See* Notice, *supra* note 3, 87 FR at 66338.

[52] *See* Note 34, *supra,* and accompanying text.

disclosure of all the material terms of the CVR before listing the CVR; (2) under the CVR Continued Listing Standards of Proposed Rule 5732(d)(3), the $1 million market value threshold requirement refers to Publicly Held Shares; (3) to initially list a CVR under Proposed Rule 5732(a)(4), the issuer's common stock must be compliant with the listing standards of the national securities exchange upon which the common stock is listed, irrespective of whether listing a Price-Based or Event-Based CVR; and (4) in Proposed Rule 5732(d)(4), for Event-Based CVRs, the primary equity security to which the Event-Based CVR is linked and the issuer's common stock must remain listed.

The Commission believes that Amendment No. 1 does not raise any novel regulatory issues from the original proposal, which was subject to a full notice and comment period during which no comments were received. Rather, Amendment No. 1 strengthens the original proposal by requiring the material terms of the CVR to be publicly disclosed prior to the Exchange listing of a CVR which will increase transparency to investors in CVRs and potential investors seeking to make an informed investment decision. In addition, the change to the continued listing standards to require the market value standard to include only Publicly Held Shares strengthens the requirements for continued listing in the original proposal and can help in ensuring adequate liquidity for continued listing of CVRs. Finally, the changes in Amendment No. 1 applicable to Nasdaq Proposed Rules 5732(a)(4) and (d)(4) provide additional specificity and clarity regarding the circumstances in which the Exchange would list and delist a CVR, which will provide additional protections for potential investors and current investors in CVRs. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[53] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[54] that the proposed rule change (SR–NASDAQ–2022–57), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[55]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–02357 Filed 2–3–23; 8:45 am]

BILLING CODE 8011–01–P

[53] 15 U.S.C. 78s(b)(2).

[54] 15 U.S.C. 78s(b)(2).

[55] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, February 9, 2023.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: February 2, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–02576 Filed 2–2–23; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property for Land Disposal at the Liberal Mid-America Regional Airport (LBL), Liberal, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release and sale of one parcel of land at the Liberal Mid-America Regional Airport (LBL), Liberal, Kansas.

DATES: Comments must be received on or before March 8, 2023.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Brian Fornwalt, Airport Manager, Liberal Mid-America Regional Airport, 302 Terminal Road, P.O. Box 2199, Liberal, KS 67901, (620) 626–0188.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2603, *amy.walter@faa.gov.*

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 0.87 acres of airport property at the Liberal Mid-America Regional Airport (LBL) under the provisions of 49 U.S.C. 47107(h)(2). The Airport Manager has requested from the FAA the release of a 0.87 acre parcel of airport property be released for sale for commercial development. The FAA determined the request to release and sell property at Liberal Mid-America Regional Airport (LBL) submitted by the Sponsor meets the procedural

requirements of the Federal Aviation Administration and the release and sale of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Liberal Mid-America Regional Airport (LBL) is proposing the release and sale of a 0.87 acre parcel of airport property. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the release of land and surface rights at the Liberal Mid-America Regional Airport (LBL) from the conditions of the AIP Grant Agreement Grant Assurances, but retaining the mineral rights. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value and the property will be developed for a commercial business.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, request an appointment and inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Liberal Mid-America Regional Airport.

Issued in Kansas City, MO, on January 31, 2023.

James A. Johnson,

Director, FAA Central Region, Airports Division.

[FR Doc. 2023–02428 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1315]

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

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

ACTION: Notice of availability.

SUMMARY: The FAA will make available Passenger Facility Charge (PFC) approvals and disapprovals online under the provisions of the Aviation Safety and Capacity Expansion Act of 1990.

FOR FURTHER INFORMATION CONTACT: Julieann Dwyer, (202) 267–8375, *julieann.dwyer@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA is responsible for providing notice of PFC approvals and disapprovals. The FAA has not published the information required since early 2015. To remedy this oversight and to provide the public with a current list of PFC approvals, the FAA will make this information available on the FAA website at: *https://www.faa.gov/airports/pfc/decisions.* Notices of PFC approvals and disapprovals, beginning with those dating to February 2015, will be available.

Issued in Washington, DC, on: February 1, 2023.

Julieann T. Dwyer,

Manager, Airports Policy Branch.

[FR Doc. 2023–02465 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0701]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operations Specifications, Part 129 Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 23, 2022. There were no comments. The FAA assesses the information collected and issues operations specifications to foreign air carriers. These operations specifications assure the foreign air carrier's ability to navigate and communicate safely within the U.S. National Airspace System.

DATES: Written comments should be submitted by March 8, 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: Danuta Pronczuk or Paul Thoren by email at: *danuta.pronczuk@faa.gov;* phone: 202–267–0923; *paul.thoren@faa.gov;* phone: 424–405–7819.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0749.

Title: Operations Specifications, Part 129 Application.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 23, 2022 (87 FR 37545). The final rule published in 2011, clarified and standardized the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and established standards for amendment, suspension and termination of those operations specifications. The final rule also applied to foreign air carriers and foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. This action was necessary to update the process for issuing operations specifications, and it established a regulatory basis for current practices, such as amending, terminating, and suspending operations specifications.

Respondents: Approximately 29 new applicants annually and 451 existing foreign air carriers and foreign persons annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 27 Hours for new applicants. 47 hours for existing applicants.

Estimated Total Annual Burden: 783 hours for new applicants and 21,197 hours for existing applicants.

Issued in Washington, DC.

Timothy R. Adams,

Flight Standards Service Acting Deputy Director, Safety Standards.

[FR Doc. 2023–02390 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Extended Application Period; Tanker Security Program Application Solicitation

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of extended application period for the Tanker Security Program (TSP).

SUMMARY: On December 9, 2022, the Maritime Administration (MARAD) published a notice in the **Federal Register** providing how to apply to MARAD's new Tanker Security Program (TSP). By this follow-on notice MARAD is extending the application period for eligible candidates to the TSP and republishing the same information soliciting applications. The FY21 NDAA authorized the Secretary of Transportation to establish a fleet of active, commercially viable, militarily useful, privately owned product tank vessels of the United States. The fleet will meet national defense and other security requirements and maintain a United States presence in international commercial shipping. The FY22 NDAA made minor adjustments related to the participation of long-term charters in the TSP. This notice provides, among other things, application criteria and extends the original application deadline for submitting applications for the enrollment of vessels in the TSP.

DATES: Applications for enrollment must be received no later than February 17, 2023. Applications should be submitted to the address listed in the **ADDRESSES** section below.

ADDRESSES: Applications may be submitted electronically to *sealiftsupport@dot.gov* or in hard copy to the Tanker Security Program, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Application forms are available upon request or may be downloaded from MARAD's website.

FOR FURTHER INFORMATION CONTACT: David Hatcher, Director, Office of Sealift Support, Maritime Administration, Telephone (202) 366–0688. For legal questions, call Joseph Click, Office of Chief Counsel, Division of Maritime Programs, Maritime Administration, (202) 366–5882.

SUPPLEMENTARY INFORMATION: Section 53402(a) of title 46, United States Code, requires that the Secretary of Transportation (Secretary), in consultation with the Secretary of Defense (SecDef), establish a fleet of active, commercially viable, militarily useful, privately-owned product tank vessels to meet national defense and other security requirements. The TSP will provide a stipend to tanker operators of U.S.-flagged vessels that meet certain qualifications.

Congress appropriated $60,000,000 for the TSP in the Consolidated Appropriations Act of 2022, Public Law 117–269, to remain available until expended. Authorized payments to participating operators are limited to $6 million per ship, per fiscal year and are subject to annual appropriations. Participating operators will be required to make their commercial transportation resources available upon request of the SecDef during times of war or national emergency.

Application Criteria

Section 53403(b)(2)(A) of title 46, United States Code directs the Secretary in consultation with the SecDef to consider applicant vessel qualifications as they relate to 46 CFR 294.9 and give priority to applications based on the following criteria:

(1) Vessel capabilities, as established by SecDef;

(2) Applicant's record of vessel ownership and operation of tanker vessels; and

(3) Applicant's citizenship, with preference for Section 50501 Citizens.

Vessel Requirements

Acceptable vessels for a TSP Operating Agreement must meet the requirements of 46 U.S.C. 53402(b) and 46 CFR 294.9. The Commander, USTRANSCOM, has provided vessel suitability standards for eligible TSP vessels for use during the application selection process. The following suitability standards, consistent with the requirements of 46 U.S.C. 53402(b)(5), will apply to vessel applications:

- Medium Range (MR) tankers between 30,000–60,000 deadweight tons, with fuel cargo capacity of 230,000 barrels or greater.
- Deck space and size to accept installation of Consolidation (CONSOL) stations, two on each side for a total of four stations.
- Ability to accommodate up to an additional 12 crew for CONSOL, security, and communication crew augmentation.
- Communication facilities capable of integrating secure communications equipment.
- Does not engage in commerce or acquire any supplies or services if any proclamation, Executive order, or statute administered by Office of Foreign Assets Control (OFAC), or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States, except as authorized by the OFAC in the Department of the Treasury.
- Operate in the Indo-Pacific region.
- Maximum draft of no more than 44 feet. Preference will be given to vessels that can transport the most fuel at the shallowest draft.
- Sustained service speed of at least 14 knots, with higher speeds preferred.
- Carry only clean refined products.
- Capable of carrying more than two separated grades of refined petroleum products with double valve protection between tanks. Additionally, the vessel must meet the standards of 46 U.S.C. 53401(4).

National Security Requirements

The applicants chosen to receive a TSP Operating Agreement will be required to enter into an Emergency Preparedness Agreement (EPA) under 46 U.S.C. 53407, or such other agreement as may be approved by the Secretaries. The current EPA approved by the Secretary and SecDef is the Voluntary Tanker Agreement (VTA), publicly available for review at 87 FR 67119 (November 7, 2022).

Documentation

A vessel chosen to receive the TSP Operating Agreement, must be documented as a U.S.-flag vessel under 46 U.S.C., chapter 121. An applicant proposing a foreign-flag vessel must demonstrate the vessel owner's intent to have the vessel so documented and must demonstrate that the vessel is so documented by the time the applicant enters into a TSP Operating Agreement for the vessel. Proof of U.S. Coast Guard vessel documentation and all relevant charter and management agreements for a chosen vessel must be approved by MARAD before the vessel will be eligible to receive TSP payments.

Vessel Operation

A vessel selected for award of a TSP Operating Agreement must be operated in foreign commerce, in mixed foreign commerce and domestic trade of the United States permitted under a registry endorsement issued under 46 U.S.C.

12111, or between U.S. ports and those points identified in 46 U.S.C. 55101(b), or in foreign-to-foreign commerce, and must not otherwise operate in the coastwise trade of the United States.

Protection of Confidential Commercial or Financial Information

If the application includes information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Commercial or Financial Information (CCFI)''; (2) mark each affected page ''CCFI''; and (3) highlight or otherwise denote the CCFI portions. MARAD will protect such information from disclosure to the extent allowed under applicable law. In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Award of Operating Agreements

MARAD does not guarantee the award of TSP Operating Agreements in response to applications submitted under this Notice. In the event that no awards are made, or an application is not selected for an award, the applicant will be provided with a written reason why the application was denied, consistent with the requirements of 46 U.S.C. 53403.

(Authority: 46 U.S.C. chapter 534, 49 CFR 1.92 and 1.93, 46 CFR 294.)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–02373 Filed 2–3–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0860]

Agency Information Collection Activity Under OMB Review: Reimbursement of Qualifying Adoption Expenses for Certain Veterans

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0860.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0860'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–3521.

Title: Reimbursement of Qualifying Adoption Expenses for Certain Veterans, VA Form 10–10152.

OMB Control Number: 2900–0860.

Type of Review: Extension of a currently approved collection.

Abstract: The VA's authority to provide reimbursement of qualifying adoption expenses for certain covered Veterans is found in Section 236 of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018, Public Law 115–141 (March 23, 2018) (the ''2018 Act'') and Section 235 of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2019, Public Law 115–244 (September 21, 2018) (the ''2019 Act''), which renewed and extended in nearly identical form Section 260 of the prior authorizing ''2017 Act,'' Public Law 114–223. VA has eliminated the section in the regulations that specifies an expiration date in order to accommodate Congressional renewal and extension of this authority under subsequent appropriations law.

Veterans with a service-connected disability that results in their inability to procreate without the use of fertility treatments are authorized to receive reimbursement for certain adoption-related expenses for an adoption that is finalized after September 29, 2016 (the date the 2017 Act was enacted). To implement this benefit, VA uses VA Form 10–10152, paralleling DD 2675, which requires any Veteran requesting reimbursement of qualifying adoption expenses to submit the same types of evidence as required under similar DoD policy. VA Form 10–10152 was previously approved by OMB through the PRA clearance process, and VA now seeks a three-year extension of that approval of this information collection.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 228 on November 29, 2022, page 73396.

Affected Public: Individuals or Households.

Estimated Annual Burden: 480 hours.

Estimated Average Burden per Respondent: 6 hours.

Frequency of Response: Once annually.

Estimated Number of Respondents: 80.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–02447 Filed 2–3–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0154]

Agency Information Collection Activity Under OMB Review: Application for VA Education Benefits; Application for Family Member To Use Transferred Benefits; Application for VA Benefits Under the National Call to Service Program

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection revision 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. Refer to ''OMB Control No. 2900–0154.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0154'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 3034; 3241, 3323(a), 3471, 5101(a); Public Law 96–342, Section 903; 10 U.S.C. 16131).

Title: Application For VA Education Benefits; Application For Family Member To Use Transferred Benefits; Application For VA Benefits Under The National Call To Service Program, VAFs 22–1990; 1990E and 1990N.

OMB Control Number: 2900–0154.

Type of Review: Revision of a currently approved collection.

Abstract: Applicants complete and submit the Application For Education Benefits, VA Form 22–1990; National Call to Service (NCS), VA Form 22–1990N, or the Transfer of Entitlement (TOE), VA Form 22–1990E to file their claim for VA education benefits, which all have different eligibility requirements. The information requested on each of these forms helps VA to determine the applicant's eligibility to education benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 231 on December 2, 2022, page 74214.

Affected Public: Individuals and Households.

Estimated Annual Burden: 170,780 hours.

Estimated Average Burden Time per Respondent: 15 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 683,122.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–02394 Filed 2–3–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0365]

Agency Information Collection Activity: Request for Disinterment

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine a claimant entitlement to disinter the remains of a loved one from or within a national cemetery.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 7, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian Hurley, National Cemetery Administration (42E), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; or email to *Brian.Hurley1@va.gov.* Please refer to ''OMB Control No. 2900–0365'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0365'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 107, 501, 512, 2306, 2402, 2403, 2404, 2407, 2408, 2411, 7105.

Title: Request for Disinterment, VA Form 40–4970.

OMB Control Number: 2900–0365.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 40–4970 to request removal of remains from a national cemetery for interment at another location. Interments made in national cemeteries are permanent and final. All immediate family members of the decedent, including the person who initiated the interment, (whether or not he/she is a member of the immediate family) must provide a written consent before disinterment is granted. VA will accept an order from a court of local jurisdiction in lieu of VA Form 40–4970.

Affected Public: Individuals or Households.

Estimated Annual Burden: 255 hours.

Estimated Average Burden per Respondent: 10 minutes each.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,531.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–02423 Filed 2–3–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled, ''Veterans Assistance Discharge System-VA'' (45VA21). This system collects a limited amount of personally identifiable information (PII) for the purpose of maintaining records and providing benefits to Veterans who file claims for a wide variety of Federal Veteran's benefits administered by VA at VA facilities located throughout the United States. VA gathers or creates these records to enable it to administer statutory benefits programs. VA is republishing the system notice in its entirety.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to Veterans Assistance Discharge System-VA (45VA21). Comments received will be available at *regulations.gov* for public viewing, inspection, or copies.

FOR FURTHER INFORMATION CONTACT: Cheryl J. Rawls, Director of Outreach, Transition, and Economic Development (OTED), Veterans Benefits Administration (VBA), Department of Veterans Affairs, 1800 G Street NW, Washington, DC 20006, (202) 461–9412, *OTED.VBACO@VA.GOV.*

SUPPLEMENTARY INFORMATION: VA is amending the system by updating the Routine Uses of Records Maintained in the System. Additionally, the name and address of the System Owner has been updated for accuracy.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document 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. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on January 31, 2023 for publication.

Dated: February 1, 2023.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Veterans Assistance Discharge System-VA (45VA21).

SECURITY CLASSIFICATION:

Classified.

SYSTEM LOCATION:

Records are maintained at VA Regional Offices; VA Medical Centers; the VA Records Management Center, St. Louis, Missouri; and at the Corporate Franchise Data Center in Austin, Texas.

SYSTEM MANAGER(S):

Cheryl J. Rawls, Director Outreach, Transition, and Economic Development (OTED), Veterans Benefits Administration (VBA), Department of Veterans Affairs, 1800 G Street NW, Washington DC 20006, (202) 461–9412, *OTED.VBACO@VA.GOV.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C., chapter 3, sections 501(a), (b).

PURPOSE(S) OF THE SYSTEM:

This system collects a limited amount of personally identifiable information (PII) for the purpose of maintaining records and providing benefits to Veterans who file claims for a wide variety of Federal Veteran's benefits administered by VA at VA facilities located throughout the United States. See the statutory provisions cited in ''Authority for maintenance of the system''. VA gathers or creates these records to enable it to administer these statutory benefits programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (Veterans only) released from active military service since March 1973, for whom separation documents (*i.e.,* DD Forms 214, 215) were received in the Corporate Franchise Data Center in Austin, Texas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records, or information contained in the records, may include PII and military discharge information. PII may include the following concerning the Veteran: full name, Social Security number, service number and date of birth. Military discharge information may include the primary military occupational specialty number, entry and release from active duty, character of service, branch of service and mailing address at the time of discharge, level of education (*e.g.,* high school graduate or equivalent or not high school graduate or equivalent), sex, total amount of active service, the dollar amount of readjustment or severance pay, number of non-paydays, pay grade, narrative reason for separation and whether the Veteran was discharged with a disability, served in the Vietnam Conflict, reenlisted in the military service or received a military decoration such as a Purple Heart.

RECORD SOURCE CATEGORIES:

The Department of Defense provides copies of DD Form 214, Certificate of Release or Discharge from Active Duty and DD Form 215, Correction to DD Form 214 to VA. U.S. Public Health Service provides copies of PHS–1867, Statement of Service Verification of Status of Commissioned Officers of the U.S. PHS to VA. The National Oceanic and Atmospheric Administration provides VA with copies of ESSA Form 56–16, Report of Separation Discharge.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. *Congress*: VA may disclose information to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. *Data Breach Response and Remediation, for VA*: VA may disclose information to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records, (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in

connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. *Data Breach Response and Remediation, for Another Federal Agency*: VA may disclose information to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. *Law Enforcement*: VA may disclose information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law. The disclosure of the names and addresses of Veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

5. *DoJ for Litigation or Administrative Proceeding*: VA may disclose information to the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

6. *Contractors*: VA may disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. *OPM*: VA may disclose information to the Office of Personnel Management (OPM) in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

8. *EEOC*: VA may disclose information to the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

9. *FLRA*: VA may disclose information to the Federal Labor Relations Authority (FLRA) in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised, matters before the Federal Service Impasses Panel, and the investigation of representation petitions and the conduct or supervision of representation elections.

10. *MSPB*: VA may disclose information to the Merit Systems Protection Board (MSPB) in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. *NARA*: VA may disclose information to the National Archives and Records Administration (NARA) in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

12. *Federal Agencies, for Computer Matches*: VA may disclose information from this system to other federal agencies for the purpose of conducting computer matches to obtain information to determine or verify eligibility of Veterans receiving VA benefits or medical care under title 38, U.S.C.

13. *Governmental Agencies, Health Organizations, for Claimants' Benefits*: VA may disclose information to Federal, state, and local government agencies and national health organizations as reasonably necessary to assist in the development of programs that will be beneficial to claimants, to protect their rights under law, and assure that they are receiving all benefits to which they are entitled.

14. *Governmental Agencies, for VA Hiring, Security Clearance, Contract, License, Grant*: VA may disclose information to a Federal, state, local, or other governmental agency maintaining civil or criminal violation records, or other pertinent information, such as employment history, background investigations, or personal or educational background, to obtain information relevant to VA's hiring, transfer, or retention of an employee, issuance of a security clearance, letting of a contract, or issuance of a license, grant, or other benefit. The disclosure of the names and addresses of Veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

15. *Federal Agencies, for Employment*: VA may disclose information to a Federal agency, except the United States Postal Service, or to the District of Columbia government, in response to its request, in connection with that agency's decision on the hiring, transfer, or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by that agency.

16. *State or Local Agencies, for Employment*: VA may disclose information to a state, local, or other governmental agency, upon its official request, as relevant and necessary to that agency's decision on the hiring, transfer, or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by that agency. The disclosure of the names and addresses of Veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

17. *Law Enforcement, for Locating Fugitive*: In compliance with 38 U.S.C. 5313B(d), VA may disclose information to any Federal, state, local, territorial, tribal, or foreign law enforcement agency in order to identify, locate, or report a known fugitive felon.

18. *Business Partners, for Collaborative Efforts:* VA may disclose information to individuals or entities with whom VA has a written agreement or arrangement to perform such services as VA may deem practical for the purpose of laws administered by VA.

19. *Federal Agencies, for Research:* VA may disclose information to a Federal agency for the purpose of conducting research and data analysis to perform a statutory purpose of that Federal agency upon the written request of that agency.

20. *DOD, for Military Mission:* VA may disclose information regarding individuals treated under 38 U.S.C. 8111A to the Department of Defense, or its components, for the purpose deemed necessary by appropriate military

command authorities to assure proper execution of the military mission.

21. *OMB:* VA may disclose information to the Office of Management and Budget (OMB) for the performance of its statutory responsibilities for evaluating Federal programs.

22. *Claims Representatives:* VA may disclose information relevant to a claim of a veteran or beneficiary, such as the name, address, the basis and nature of a claim, amount of benefit payment information, medical information, and military service and active duty separation information, only at the request of the claimant to accredited service organizations, VA-approved claim agents, and attorneys acting under a declaration of representation, so that these individuals can aid claimants in the preparation, presentation, and prosecution of claims under the laws administered by VA.

23. *Nonprofits, for RONA:* VA may disclose the names and address(es) of present or former members of the armed services or their beneficiaries: (1) to a nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under title 38, and (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such organization, agency, or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law; provided that the records will not be used for any purpose other than that stated in the request and that organization, agency, or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

24. *Outreach:* VA may disclose information upon request to any state, local, territorial, tribal, or other governmental agency upon request for the purpose of outreach concerning a benefit under Title 38.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records (or information contained in records) are maintained on paper documents in claims folders (C-folders), vocational rehabilitation folders, electronic file folders (*e.g.,* Virtual VA and TIMS File), and on automated storage media (*e.g.,* microfilm, microfiche, magnetic tape, and disks). Such information may be accessed through data telecommunication terminal systems designated the Benefits Delivery Network (BDN), Virtual VA and Veterans Service Network (VETSNET). BDN, Virtual VA and VETSNET terminal locations include VA Central Office, VA Regional Offices, VA Medical Centers, and Veterans Integrated Service Network (VISN) offices. Remote on-line access is also made available to authorized remote sites, representatives of claimants and to attorneys of record for claimants. A VA claimant must execute a prior written consent or a power of attorney authorizing access to his or her claims records before VA will allow the representative or attorney to have access to the claimant's automated claims records. Access by representatives and attorneys of record is to be used solely for the purpose of assisting an individual claimant whose records are accessed in a claim for benefits administered by VA.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information is retrievable by name only; name and one or more numbers (service, Social Security, VA claims file, and VA insurance file); name and one or more criteria (*e.g.,* date of birth, death, and service); VA file number only; or initials or first five letters of the last name and VA file number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, VB–1, Part II, Central Office, Item No. 2–13.2.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to the basic file in the Corporate Franchise Data Center in Austin, Texas is restricted to authorized VA employees and vendors. Access to working spaces and claims folder file storage areas in VA Regional Offices and VA Medical Centers is restricted to VA employees who have a need-to-know for the performance of their official duties associated with providing Veterans benefits. Generally, file areas are locked after normal duty hours and the offices and centers are protected from outside access by the Federal Protective Service or other security personnel. Access to BDN, Virtual VA and VETSNET data telecommunication networks are controlled by authorization of the site security officer who is responsible for authorizing access to the BDN, Virtual VA and VETSNET by a claimant's representative or attorney approved for access in accordance with VA regulations. The site security officer is responsible for ensuring that the hardware, software, and security practices of a representative or attorney satisfy VA security requirements before granting access. The security requirements applicable to the access of automated claims files by VA employees also apply to the access of automated claims files by claimants' representatives or attorneys. The security officer is assigned responsibility for implementing and enforcing privacy-security measures, especially for review of violation logs, information logs and control of password distribution, including password distribution for claimants' representatives.

RECORD ACCESS PROCEDURES:

Individuals seeking information on the existence and content of records in this system pertaining to them should contact the system manager in writing as indicated above. A request for access to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records in this system pertaining to them should contact the system manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURES:

Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

75 FR 61865 (October 6, 2010).

[FR Doc. 2023–02388 Filed 2–3–23; 8:45 am]

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Part II

Department of Transportation

National Highway Traffic Safety Administration

23 CFR Part 1300

Uniform Procedures for State Highway Safety Grant Programs; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1300

[Docket No. NHTSA–2022–0036]

RIN 2127–AM45

Uniform Procedures for State Highway Safety Grant Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule makes changes and clarifications to the revised uniform procedures implementing State highway safety grant programs in response to comments received on the notice of proposed rulemaking published September 15, 2022.

DATES: This final rule is effective on March 8, 2023.

FOR FURTHER INFORMATION CONTACT:

For program issues: Barbara Sauers, Associate Administrator, Regional Operations and Program Delivery, National Highway Traffic Safety Administration; Telephone number: (202) 366–0144; Email: *barbara.sauers@dot.gov.*

For legal issues: Megan Brown, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; Telephone number: (202) 366–1834; Email: *megan.brown@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

We face a crisis on our roadways. NHTSA projects that an estimated 42,915 people died in motor vehicle crashes in 2021.[1] Estimates for the first three quarters of 2022 are bleak: an estimated 31,785 people died in motor vehicle crashes during this period.[2] Behind each of these numbers is a life tragically lost, and family and friends left behind. The crisis is both urgent and preventable. The third quarter of 2022 shows promise, representing the second straight quarterly decline in fatalities after seven consecutive quarters of year-to-year increases. We need to build on the declining trends and work to ensure safer roads for everyone.

NHTSA is redoubling our safety efforts and is asking our State and local partners to join us in this critical pursuit. The programs to be implemented under today's rulemaking are an important part of that effort. Now, more than ever, we all must seize the opportunity to deliver accountable, efficient, and data-driven highway safety programs to save lives and reverse the deadly trend on our Nation's roads. The highway safety grants implemented in today's action fit within a broader framework involving many stakeholders working synergistically across many programs. We encourage States to view their triennial Highway Safety Plans in the context of the National Roadway Safety Strategy and the Safe System Approach discussed later in this document in response to comments.

On November 15, 2021, the President signed into law the ''Infrastructure Investment and Jobs Act'' (known also as the Bipartisan Infrastructure Law, or BIL), Public Law 117–58. The BIL provides for a once-in-a-generation investment in highway safety, including a significant increase in the amount of funding available to States under NHTSA's highway safety grants. It introduced expanded requirements for public and community participation in funding decisions, holding the promise of ensuring better and more equitable use of Federal funds to address highway safety problems in the locations where they occur. The BIL amended the highway safety grant program (23 U.S.C. 402 or Section 402) and the National Priority Safety Program grants (23 U.S.C. 405 or Section 405). The legislation significantly changed the application structure of the grant programs that were in place under prior DOT authorizations, MAP–21 and the FAST Act. The legislation replaced the current annual Highway Safety Plan (HSP), which serves as both a planning and application document, with a triennial HSP and annual grant application and it codified the annual reporting requirement. The BIL also made the following changes to the Section 405 grant program:

- Maintenance of Effort—Removed the maintenance of effort requirement for the Occupant Protection Grants, State Traffic Safety Information System Improvements Grants, and Impaired Driving Countermeasures Grants;
- Occupant Protection Grants—Expanded allowable uses of funds and specified that at least 10 percent of grant funds must be used to implement child occupant protection programs for low-income and underserved populations;
- State Traffic Safety Information System Improvements Grants—Streamlined application requirements (allows certification to several eligibility requirements and removes assessment requirement) and expanded allowable uses of funds;
- Impaired Driving Countermeasures Grants—Expanded allowable uses of funds;
- Alcohol-Ignition Interlock Law Grants—Added criteria for States to qualify for grants (specifies three ways for a State to qualify) and amended allocation formula;
- 24–7 Sobriety Programs Grants—Amended program definition and allocation formula;
- Distracted Driving Grants—Amended definitions, changed allocation formula, and amended requirements for qualifying laws;
- Motorcyclist Safety Grants—Added an eligibility criterion (helmet law);
- State Graduated Driver Licensing Incentive Grants—Discontinued grant;
- Nonmotorized Safety Grants—Amended the definition of nonmotorized road user and expanded allowable uses of funds;
- Preventing Roadside Deaths Grants—Established new grant; and
- Driver and Officer Safety Education Grants—Established new grant.

In addition, the BIL amended the racial profiling data collection grant authorized under the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users'' (SAFETEA–LU), Sec. 1906, Public Law 109–59 (Section 1906), as amended by the FAST Act, to expand the allowable uses of funds and amend the cap on grant award amounts. It also removed the time limit for States to qualify for a grant using assurances.

[1] National Center for Statistics and Analysis. (2022, May). Early estimates of motor vehicle traffic fatalities and fatality rate by sub-categories in 2021 (Crash•Stats Brief Statistical Summary. Report No. DOT HS 813 298). National Highway Traffic Safety Administration. *Available at https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813298.*

[2] National Center for Statistics and Analysis. (2022, December). Early estimates of motor vehicle traffic fatalities for the first 9 months (January–September) of 2022 (Crash•Stats Brief Statistical Summary. Report No. DOT HS 813 406). National Highway Traffic Safety Administration. *Available at https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813406.*

As in past authorizations, the BIL requires NHTSA to implement the grants pursuant to rulemaking.

II. Summary of the Notice of Proposed Rulemaking

On April 21, 2022, the agency published a notification of public meetings and request for comments (RFC). 87 FR 23780. NHTSA held virtual public meetings on May 2, May 4, and May 5, 2022, and accepted written comments submitted through May 23, 2022. Twenty-three people provided oral comments at the public meetings, and 55 written comments were submitted to the docket at *regulations.gov.* NHTSA also added three letters to the docket that were sent directly to the agency prior to the RFC.

On September 14, 2022, NHTSA published a notice of proposed rulemaking (NPRM), proposing regulatory language to implement the BIL provisions and addressing comments received at the public meetings and in response to the RFC. 87 FR 56756. It set forth the application, approval, and administrative requirements for all 23 U.S.C. Chapter 4 grants and the Section 1906 grants. Section 402, as amended by the BIL, continues to require each State to have an approved highway safety program designed to reduce traffic crashes and the resulting deaths, injuries, and property damage. Section 402 sets forth minimum requirements with which each State's highway safety program must comply.

Under new procedures proposed in the NPRM, each State would submit for NHTSA approval a triennial Highway Safety Plan (''triennial HSP'') that identifies highway safety problems, describes the State's public participation and engagement efforts, establishes performance measures and targets, describes the State's countermeasure strategies for programming funds to achieve its performance targets, and reports on the State's progress in achieving the targets set in the prior HSP. 23 U.S.C. 402(k). Each State would also submit for NHTSA approval an annual grant application that provides any necessary updates to the triennial HSP, identifies all projects and subrecipients to be funded by the State with highway safety grant funds during the fiscal year, describes how the State's strategy to use grant funds was adjusted based on the State's latest annual report, and includes an application for additional grants available under Chapter 4. 23 U.S.C. 402(l). The agency proposed to reorganize and rewrite subpart B of part 1300 and 23 CFR 1300.35 to implement these changes.

As noted above, the BIL expanded the allowable uses of funds for many of the National Priority Safety Program grants, amended allocation formulas, added criteria for some grants and streamlined application requirements for others, deleted one grant, and established two new grants. For Section 405 grants with additional flexibility (Occupant Protection Grants, State Traffic Safety Information System Improvements Grants, Impaired Driving Countermeasures Grants, Alcohol-Ignition Interlock Law Grants, Distracted Driving Grants, Motorcyclist Safety Grants, Nonmotorized Safety Grants, and Racial Profiling Data Collection Grants) and for the new grants (Preventing Roadside Deaths Grants and Driver and Officer Safety Education Grants), where the BIL identified specific qualification requirements, the NPRM proposed adopting the statutory language with limited changes. The agency also proposed amendments to align the application requirements for all Section 405 and Section 1906 grants with the new triennial HSP and annual grant application framework.

Finally, the NPRM proposed limited changes to administrative provisions to accommodate the triennial framework and address changes made by revisions to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200.

III. Public Comments on the Notice of Proposed Rulemaking

In response to the NPRM, the following submitted comments to the public docket on *www.regulations.gov:* American Association of State Highway and Transportation Officials (AASHTO); American Association of Motor Vehicle Administrators (AAMVA); Coalition of Ignition Interlock Manufacturers (CIIM); Connecticut Highway Safety Office (CT HSO); Delaware Office of Highway Safety (DE OHS); Foundation for Advancing Alcohol Responsibility (*Responsibility.org*); Governor's Highway Safety Association (GHSA); Haas Alert; League of American Bicyclists (League); Maine Bureau of Highway Safety (MeBHS); Massachusetts Office of Grants and Research, Highway Safety Division (MA OGR); Missouri Department of Transportation (MoDOT); Mitchell Berger; Minnesota Department of Public Safety (MN DPS); National Association of State 911 Administrators (NASNA); National EMS Management Association (NEMSMA); Nevada Office of Traffic Safety (NV OTS); Pamela Bertone; Tennessee Highway Safety Office (TN HSO); Wyoming Department of Health, Office of Emergency Medical Services (WY OEMS); joint submission by the Departments of Transportation of Idaho, Montana, North Dakota, South Dakota and Wyoming (5-State DOTs); and two anonymous commenters. Eight of these commenters (5-State DOTs; AASHTO; CT HSO; DE OHS; NV OTS; MeBHS; MoDOT; and MN DPS) expressed general support for GHSA's comments.

In this preamble, NHTSA addresses all comments and identifies any changes made to the NPRM's regulatory text.[3] In addition, NHTSA makes several technical corrections to cross-references and other non-substantive editorial corrections necessitated by proposed changes to the rule. For ease of reference, the preamble identifies in parentheses within each subheading and at appropriate places in the explanatory paragraphs the CFR citation for the corresponding regulatory text.

Many commenters provided general input about the rulemaking process or about overarching aspects of highway safety that cannot be tied to a single regulatory provision. Those comments are discussed below.

A. Rulemaking Process

Multiple commenters[4] expressed appreciation for NHTSA's shared commitment to completing this rulemaking in an expedient manner. They explained that States need time to integrate the new requirements into their highway safety planning for FY24.

Several commenters[5] repeated their comments from the RFC, broadly reiterating that NHTSA should ensure fidelity to the spirit and letter of Congressional directives, minimize the administrative burden on States, and provide greater flexibility in the use of funds. They explained that unnecessary administrative burdens shift States' focus away from program delivery and discourage subrecipient participation. The CT HSO further argued that burdens imposed by the proposed regulation would deprive governors of their prerogative to set roadway safety policy within their States. HAAS Alert noted that small towns are frequently

[3] Two commenters submitted comments that are outside the scope of this rulemaking; these comments covered infrastructure and road design, and a ban on all-terrain vehicles. As these comments are outside the scope of NHTSA's Section 402 and 405 grant programs, they are beyond the scope of this rulemaking and will not be addressed further in this preamble.

[4] AAMVA, AASHTO, GHSA, MN DPS, and TN HSO.

[5] AASHTO, AAMVA, DE OHS, GHSA, MN DPS, MoDOT, and 5-State DOTs.

underserved when it comes to receiving transportation funding and encouraged NHTSA to consider the administrative burdens on those areas when determining grant requirements.

It is not our intention to impose unnecessary administrative burdens on States or their subrecipients, and we have amended and streamlined several areas of this rulemaking in response to specific comments received. The agency's task is to promulgate a regulation that will implement the statutory requirements for the highway safety grant program. We address specific comments about burden in the sections that follow but note that, as a Federal awarding agency, we have a responsibility to ensure that Federal grant funds are spent for the purposes Congress specifies and consistent with all legal requirements, including the Section 402 and 405 statutory text and other Federal grant laws and regulations. Our intent is to impose reasonable administrative requirements to ensure that recipients of Federal funds adhere to applicable legal requirements that are consistent with our responsibilities as a steward of taxpayer funds.

Finally, GHSA and the MoDOT requested that NHTSA provide a red-lined or track changes copy of the regulatory text so that States can more easily see the changes made by this rule. NHTSA appreciates the importance of ensuring that States are well-versed on the changes to the rule and that they understand the impacts of those changes and their implications for applications and program management. Ensuring that understanding is, in fact, the precise purpose and goal of this preamble and of the full exposition of the regulatory text that follows. We encourage all States to embrace this document in its entirety. States are responsible for complying with the entire rule—not just with the specific changes made in this rulemaking. In our view, it is important and instructive to read all of the rule anew, as a red-lined version would underemphasize important context necessary to assist in planning and program implementation. For example, in some cases, regulatory text may remain the same but have a different meaning or impact within the new triennial framework or due to other BIL-related nuances. NHTSA is committed to providing States with ongoing training, guidance and technical assistance as they work to implement the changes made in the BIL, as carried out through this regulation.

B. Guidance

NHTSA received several comments stating the importance of and need for clear guidance on various aspects of the highway safety grant program. Some of those comments relate to specific grant programs and will be discussed in the relevant section of the preamble. The DE OHS stressed the importance of consistent guidance so that States can rely on the same information. The League of American Bicyclists encouraged NHTSA to share information about programs and State practices and identified several specific guidance documents published by NHTSA, FHWA and DOT that it would like the agency to review and update. NHTSA recognizes that some existing guidance may require modification or rescission as a result of changes to the statute and this rule. We intend to begin reviewing existing guidance after this rulemaking is complete and will keep the specific suggestions provided by these commenters, as well as the comments received in response to the RFC, in mind at that time.

C. Equity

NHTSA received comments stressing the importance of equity in traffic safety programs. Given the importance of the topic and thoughtfulness of the comments, here we summarize and briefly respond to all comments we received relating to equity.

The League of American Bicyclists expressed appreciation for NHTSA's commitment to and discussions about equity and looked forward to seeing the continued results of these efforts. The League of American Bicyclists also requested that NHTSA provide definitions and examples of ''centering equity'' and ''equitable enforcement.'' NHTSA strongly supports the policies and commitment to equity laid out in Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through Federal Government, and is committed to fulfilling our responsibilities under the Order and to following its principles. The highway safety grant program plays an important role; the meaningful public participation and engagement requirements implemented in this rulemaking form a critical part of State planning to help ensure that equity is centered in the grant program. Under BIL, States are expected to engage affected and potentially affected communities during their triennial HSP planning process and throughout the life of the grant, including through particular emphasis on underserved communities and communities over-represented in the data. NHTSA will offer technical assistance to States on how to meaningfully engage communities to inform traffic safety programs that promote safe and accessible roadways, all while reducing transportation-related disparities, adverse community impacts, and health effects through their traffic safety programs.

The CT HSO requested that NHTSA allow States to use alternative methods to fund equity partnerships that do not involve reimbursement-based funding arrangements, noting that many potential partners are unable to participate in the highway safety grant program because they do not have sufficient funds available to cover costs prior to reimbursement. NHTSA encourages States to think creatively about ways to support the participation of non-traditional traffic safety partners, including equity partnerships, consistent with Federal grant rules. Federal grant rules allow for advance payments in some situations. NHTSA commits to issuing guidance on advance and reimbursement-based payments in State highway safety grant programs. In addition, as part of our goal to support the inclusion of equity in the highway safety program, NHTSA will work closely with States and national organizations to brainstorm new and creative ways to encourage the involvement of new and diverse groups in the highway safety grant program.

The League of American Bicyclists reiterated its prior comment to the RFC, expressing concern about NHTSA's continued support for the Data-Driven Approaches to Crime and Traffic Safety (DDACTS) program. It noted that DDACTS combines traffic safety and other law enforcement data, making traffic-related activities difficult to separate from ineligible activities because of difficulties in determining whether a traffic stop is traffic-related or merely pretextual. As NHTSA explained in the NPRM, DDACTS is a law enforcement operational model that integrates location-based traffic-crash and crime data to determine the most effective methods for deploying law enforcement and other resources. It focuses on community collaboration to reinforce the role that partnerships play in improving the quality of life in communities and encourages law enforcement agencies to use effective engagement and new strategies. NHTSA continuously reviews the content of DDACTS training and works to ensure that the training focuses on community engagement and the appropriate application of fair and equitable traffic enforcement strategies. NHTSA will

continue to evaluate DDACTS to ensure that it promotes only enforcement that is implemented fairly and equitably.

NHTSA also notes that DDACTS is not part of NHTSA's highway safety grant program, and not all DDACTS-related activities are eligible uses of NHTSA's grant funds. NHTSA's grant funds may only be used for traffic safety activities; any other law enforcement purpose is not eligible. Further, as we stated previously, use of NHTSA grant funds for discriminatory practices, including those associated with pretextual policing, violates Federal civil rights laws, and NHTSA will seek repayment of any grant funds that are found to be used for such purposes and refer any discriminatory incidents to the Department of Justice.

Finally, the League of American Bicyclists thanked NHTSA for responding to its prior comments on the discriminatory outcomes of countermeasures included in NHTSA's *Countermeasures That Work* guide.[6] It clarified that it was not accusing NHTSA or States of using NHTSA grant funds for discriminatory enforcement, but rather requesting that NHTSA discuss potential or observed disparities in impact from enforcement or other countermeasures within the *Countermeasures That Work.* As an example, it noted that the *Countermeasures That Work* designates mandatory bicycle helmet laws as highly effective and low cost while designating bicycle helmet use promotions as less effective and high cost, and argued that these disparate designations fail to account for several costs and impacts associated with helmet use laws, such as the related to education and enforcement, and the impacts of potentially discouraging bicycle use due to enforcement efforts. GHSA similarly argued that *Countermeasures That Work* over-encourages investment in enforcement-related countermeasures. As we noted in the NPRM, NHTSA is currently working on the next edition of the *Countermeasures That Work* and will explore the considerations raised in these comments in the course of that undertaking.

D. National Roadway Safety Strategy and the Safe System Approach

NHTSA received several comments regarding the implementation of the National Roadway Safety Strategy (NRSS) and the Safe System Approach (SSA). NHTSA is committed to working with the States to successfully implement the NRSS and the SSA within the formula grant programs and views the grant program as an important part of a much broader strategy involving multiple DOT modes and stakeholders. NHTSA urges states to consider how their triennial Highway Safety Plans fit into a broader SSA, to work collaboratively to consider the ways in which multiple strategies—including grant-funded strategies and other State and local programs—can work synergistically, and to think holistically about using all available tools to reduce roadway fatalities and crashes. For example, in addressing pedestrian safety, a State might consider improvements in infrastructure by providing more crosswalks and better lighting, reductions in speeds in areas with high pedestrian use, and enforcement and education in areas of high pedestrian injuries and fatalities. Even though highway safety grant funding is available for only some of these strategies, SHSOs should work with other entities on holistic solutions to problems identified in their triennial HSPs. States should also consider making recommendations within the Executive Branch about possible changes in State laws that can reduce fatalities and crashes even though SHSOs cannot engage in direct lobbying of their legislatures using highway safety grant funds. NHTSA appreciates the continued support and feedback from commenters on NRSS and SSA implementation, and provides responses below.

The CT HSO repeated its previous comment that implementing the NRSS and the SSA will require NHTSA to afford administrative flexibility to States. As expressed in the NPRM, NHTSA intends to provide such flexibility consistent with applicable law.

AAMVA suggested that, in addition to administrative flexibility, NHTSA provide centralized guidance and support to assist State efforts in implementing the NRSS and the SSA. The League of American Bicyclists reiterated that NHTSA and States should do more to promote the understanding, acceptance, and implementation of the SSA in State transportation agency cultures. NHTSA agrees that the agency should work to ensure that grantees understand and properly implement the NRSS and the SSA. As announced in May 2022, NHTSA offers and will continue to offer expanded safety program technical assistance to States to assist them with understanding and implementing the NRSS and the SSA, and will continually assess States' needs in this area.

AAMVA stressed the importance of quality data that can be exchanged among stakeholders. NHTSA agrees that the objectives of the NRSS/SSA are inherently intertwined with the agency's data-driven mission to save lives, prevent injuries, and reduce economic costs due to road traffic crashes through education, research, safety standards, and enforcement. To address the unacceptable increases in fatalities on our nation's roadways, the NRSS/SSA adopts a data-driven, holistic, and comprehensive approach focused on reducing the role that human mistakes play in negative traffic outcomes and in recognizing the vulnerability of humans on the road. NHTSA expects States to use the best and most comprehensive data available (extending beyond fatality data) to conduct problem identification, set performance targets, and assess their progress in meeting those targets. States are also encouraged to think critically about how available data can and should be used to analyze their highway safety programs beyond the information that is specifically required. Further, NHTSA encourages States to consider ways to improve State data systems in order to increase data availability and data-sharing opportunities.

E. Transparency

NHTSA appreciates the League of American Bicyclists' support of NHTSA's proposed approach to satisfy the BIL's expanded transparency requirements, particularly in relation to the information provided in the annual grant application. The League of American Bicyclists expressed broad support for greater transparency and specifically encouraged NHTSA to make publicly available the information provided in the annual report by States about the community collaboration efforts that are part of the State's evidence-based enforcement program. NHTSA notes that this information will be made available, as the BIL requires NHTSA to publicly release, on a DOT website, all approved triennial HSPs and annual reports. 23 U.S.C. 402(n). NHTSA will post this information on *NHTSA.gov,* consistent with the statutory requirements.

The BIL further requires that the website allow the public to search specific information included in the released documents: performance measures, the State's progress towards meeting the performance targets, program areas and expenditures, and a description (if provided) of any sources of funds other than NHTSA highway

[6] *Available online at https://www.nhtsa.gov/sites/nhtsa.gov/files/2021-09/Countermeasures-10th_080621_v5_tag.pdf.*

safety grant funds that the State proposes to use to carry out the triennial HSP. 23 U.S.C. 402(n)(2). In response to this statutory requirement, GHSA requested that NHTSA clarify that non-Federal funds are no longer required to be reported by the States. We confirm that the BIL removed the requirement to describe all non-Federal funds that the State intends to use to carry out countermeasure strategies in the triennial HSP. However, States are still required to provide information on matching funds that will be used to meet the non-Federal share of the cost of the program. NHTSA will post information on State matching funds and any other non-Federal funding sources that States choose to provide in their triennial HSPs and annual grant applications. However, for improved accountability and transparency in the highway safety grant program, NHTSA encourages States to continue reporting State, local, or private funds they propose to use. As the League of American Bicyclists noted, having such information publicly available would strengthen understanding of the funding uses.

In response to the RFC, NHTSA received many comments advocating for an electronic grant management (e-grant) system. In contrast, in response to the NPRM, MN DPS recommended that NHTSA not develop a new e-grant system, explaining that it would be too difficult to transition to such a system at the same time as adjusting to the new authorization of the grant program. As stated in the NPRM, an e-grant system would foster greater transparency in the use of NHTSA highway safety grant funds by allowing State program information to be aggregated, organized, and made available to the public in a user-friendly manner. NHTSA has not yet deployed such a system, as the TN HSO pointed out, and the agency does not plan to do so concurrently with the initial deployment of the newly authorized grant programs. Currently, NHTSA is in the exploration stages of developing an e-grant system. The TN HSO requested that States participate in developing the grant management system. We expect that any future e-grant system will facilitate greater cross-state collaboration, data analysis, and transparency in the use of program funds. To facilitate this outcome, NHTSA will actively engage States and other stakeholders in its development.

NHTSA sought comment in the NPRM on whether a standardized template, codified as an appendix to the regulation, would be helpful as an interim measure for States to provide information in a uniform manner similar to what we hope will be enabled by a future e-grant system. In response, three commenters [7] recommended against developing a standardized template at this time in favor of waiting for the deployment of the future e-grant system. Accordingly, NHTSA will not develop a standardized template as part of this rulemaking.

F. Emergency Medical Services

Five commenters provided comments related to various aspects of emergency medical services (EMS), post-crash care, and 911 systems. These comments covered three general themes: eligibility for NHTSA grant funds, allowable use of grant funds, and NHTSA's actions related to EMS and 911.

Three commenters discussed eligibility for funding under NHTSA's highway safety grant program. NEMSMA requested that NHTSA ensure that grant funds go to rural EMS providers, including volunteer groups. WY OEMS recommended that NHTSA require States to provide funding to EMS and State or local trauma systems. Pamela Bertone requested that for-profit EMS companies be deemed ineligible for funding and that, if they were to remain eligible, States should be required to look at the financial portfolio and tax returns of the CEO. NHTSA supports the EMS communities' efforts to integrate post-crash care initiatives into State highway safety programs where supported by the data and encourages States to consider funding eligible EMS activities with NHTSA's highway safety grant funds. However, under our grant statute, NHTSA does not have the authority to direct State funding choices or to provide funding directly to EMS agencies. Similarly, NHTSA does not have the authority to prohibit States from entering into grants with for-profit entities; however, Federal grant rules prohibit an entity from earning profits from a Federal award or subaward. *See* 2 CFR 200.400(g).

Three commenters [8] provided recommendations that certain costs be considered allowable uses of NHTSA highway safety grant funds. Identified costs included training, Centers of Excellence related to emergency responder highway safety, purchase of safety and personal protective equipment, development of technologies to notify drivers they are approaching a crash scene with responders present, data collection, and enhancements to 911 systems and collision notification systems. An anonymous commenter argued that grants should provide funding for EMS systems based on a ratio of population and regionalization. As we explained in the NPRM, determinations of allowable use of funds are highly fact-specific and are dependent on many factors, including the funding source to be used (*i.e.,* Section 402 or one of the Section 405 incentive grants) and the details of the activity to be funded. In cases where there is not a sufficient nexus to traffic safety to fund the entirety of the project, projects may be limited to proportional funding. In addition, all activities funded by NHTSA highway safety grant funds must be tied to countermeasure strategies for programming funds in the State's triennial HSP, which in turn must be based on a State's problem identification and performance targets. NHTSA strongly encourages all stakeholders, including the EMS community, to work closely with State HSOs to offer ideas for potential activities that may be eligible for NHTSA formula grant funding.

NEMSMA also provided comments related to many activities of NHTSA's Office of Emergency Medical Services (OEMS). The Office of EMS is a knowledgeable and useful resource to States, EMS agencies, and to NHTSA itself in addressing the post-crash care component of the highway safety grant program. However, those comments were outside the scope of this rulemaking because they relate to NHTSA's activities outside of the highway safety grant program.

G. Other

Pamela Bertone commented that the NPRM seemed to focus more on impaired and distracted driving than it did on speed, which she stated is the most common cause of fatalities, and recommended that NHTSA put more focus on speed. NHTSA emphasizes the importance of speed management as a central component of highway safety programs and works closely with States to combat risky driving behaviors such as speed, including through a recent National safety campaign named ''Speed Wrecks Lives,'' conducted in June 2022. Impaired and distracted driving are also important components of highway safety programs and received comparatively more discussion in the NPRM and in this final rule because those program areas are National priority safety areas identified by Congress for Section 405 incentive grants. Nevertheless, States are encouraged to continue to carry out substantial speed management

[7] AAMVA, GHSA, and TN HSO.

[8] Anonymous commenter, NASNA, and NEMSMA.

campaigns using Section 402 grant funds.

IV. General Provisions (Subpart A)

A. Definitions (23 CFR 1300.3)

GHSA commented that the definitions of ''program area'' and ''project (or funded project)'' should reference either the annual grant application or the triennial HSP instead of the HSP. Where the NPRM referenced the ''HSP,'' NHTSA intended it to refer to the ''triennial HSP.'' Consequently, NHTSA has amended the definitions for clarity to reference the triennial HSP.

In addition, NHTSA made purely technical amendments to several definitions. The agency updated citations within the definitions of ''Section 1906,''[9] ''State highway safety improvement program,'' and ''State strategic highway safety plan.''

Finally, NHTSA removed reference to the KABCO scale in the definition of ''serious injuries'' as the scale is no longer used for this purpose.

B. State Highway Safety Agency (23 CFR 1300.4)

The CT HSO and GHSA both expressed concern with the proposal that the Governor's Representative for Highway Safety (GR) may not be employed by a subrecipient of the State highway safety agency (commonly referred to as the State Highway Safety Office, or SHSO). CT HSO explained that the CT HSO is a subcomponent agency of the CT DOT; the GR is employed by the CT DOT, which receives subawards from the CT HSO. GHSA explained that in some States, the GR is an employee of the SHSO and that the SHSO awards grants to itself; or that, as in CT, the GR may be an employee of an overarching State department that receives subawards from the SHSO.

The two examples given do not cause a problem with the regulatory text as proposed in the NPRM, as an agency is never a subrecipient of itself, nor can a parent agency be a subrecipient of a subagency. However, NHTSA recognizes that using the term subrecipient in this context may be confusing, and especially so in light of the many varied configurations of State governments. NHTSA has amended the regulatory text to provide that, in order to carry out the responsibilities required by the GR and to avoid a potential conflict of interest, the GR must have ready access to the Governor and be the head of the SHSO or be in the chain of command between the SHSO and the Governor. This framework will achieve the goal of the NPRM, while using more direct language that is easier for States to apply. NHTSA notes, however, that this provision serves as a minimum floor to ensure that GRs have the capability to fulfill their required functions in the grant program, as provided in the whole of § 1300.4 and other Federal requirements, such as OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200). The GR remains responsible for carrying out those responsibilities.

V. Triennial Highway Safety Plan and Annual Grant Application (Subpart B)

As explained in the NPRM, the BIL created a new triennial framework for the Highway Safety Grant Program, replacing the annual Highway Safety Plan (HSP) with a triennial HSP and annual grant application. As part of this new triennial framework, Congress increased community participation requirements and codified the annual reporting requirement.

In addition to the broader comments urging that the agency ensure fidelity to the law in drafting the regulatory text, CT HSO requested that NHTSA refrain from requiring application or reporting requirements beyond those explicitly authorized by law. As we explained in response to GHSA's similar comment in the NPRM, NHTSA has striven to do so and to streamline requirements wherever possible. However, relevant legal requirements for these Federal grants are not limited to those in the BIL. For example, OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) provide many requirements applicable to the grant program, both for States as award recipients and for NHTSA as the Federal awarding agency. We have included or referred to several of those requirements throughout this regulation.

AAMVA, the CT HSO, and the MN DPS requested that NHTSA avoid duplication between the three different submissions that make up the triennial framework (the triennial HSP, the annual grant application, and the annual report). NHTSA will discuss specific requirements in more detail in the relevant sections of the preamble, but notes here that the triennial framework created by the BIL was designed to allow the three program documents to build on each other. While the required components of the submissions never overlap completely, they frequently focus on the same types of information captured at different times throughout the life of the grant, from long-range planning (triennial HSP), to grant year implementation (annual grant application), to end of year oversight and performance reporting (annual report), to triennial performance reporting (triennial HSP). Viewed in this context, these requirements are not duplicative, but rather relate to program information developed at various stages along a timeline. Where information is truly duplicative, we have striven to avoid redundancy, as noted earlier.

AAMVA requested that NHTSA provide front-end support and flexibility to States as they transition to the new triennial framework. NHTSA is committed to providing States with all necessary support during this transition, and continuing onward, as they implement highway safety programs. With the recent increase in traffic fatalities, it is more important than ever that States carry out strong, data-driven, and performance-based highway safety programs. NHTSA believes that the triennial framework created by the BIL, with annual projects tied to longer-range planning based on performance targets and countermeasure strategies, will be a valuable tool for States as they work in partnership with NHTSA to address the recent traffic. NHTSA, including its Office of Regional Operations and Program Delivery and our ten regions, stand ready to assist the States in deploying successful programs under the new authority. While we have worked to implement the statutory requirements without imposing unnecessary burdens on States, we are committed to ensuring through our review and approval authority that State triennial HSPs and annual grant applications provide for data-driven and performance-based highway safety programs. We will provide States with the support necessary to reach these goals, but will look to the States to provide high quality programs that NHTSA is able to approve.

A. First Year Flexibility

Several commenters[10] expressed concern about the States' ability to comply with the new triennial framework in the first fiscal year of the authorization (FY24). These commenters specifically requested that NHTSA provide States with flexibility with regard to the public engagement requirements for the first triennial HSP, arguing that States would not be able to comply with public engagement requirements in the time between publication of the final rule and the July

[9] NHTSA has similarly made a technical correction to update the citation for Section 1906 throughout the regulatory text.

[10] AAMVA, GHSA, MN DPS, and MoDOT.

1, 2023 due date for the first triennial HSP. AAMVA suggested that NHTSA excuse States from meeting any non-descriptive requirements associated with public engagement in the FY24 triennial HSP. The MN DPS and MoDOT requested that NHTSA not strictly enforce the public engagement requirements and instead treat FY24 triennial HSP submissions as a good faith building block for future triennial periods. GHSA, supported by AASHTO, recommended that NHTSA create a one-time allowance for States to submit public participation plans in the FY24 triennial HSP (without the requirement to conduct any public engagement efforts) and report on efforts carried out in the FY25 annual grant application.

NHTSA declines to delay these public engagement requirements, which form one of the seminal requirements of the new BIL grants. In enacting BIL, Congress recognized the need to allow States time to ramp up their efforts in this and other areas of the new grant programs, and so delayed the start of the new requirements for almost two years after enactment. This delay provided the States ample time to prepare for needed adjustments, and NHTSA is not able to waive the statutory directive for ''meaningful public participation and engagement from affected communities.'' Moreover, in an era of increasing traffic fatalities and disparate outcomes, NHTSA will not compromise on the quality of the approved highway safety programs under the new statutory framework, and that includes the critical component of public engagement. Accordingly, all requirements will take full effect for FY24 grants. The public engagement requirements in this regulation implement important requirements set out in the BIL and in accordance with Title VI of the Civil Rights Act of 1964 [11] (or Title VI), as well as NHTSA's own commitment to ensuring that equity is centered in the planning and implementation of the highway safety grant program. They are also of clear importance to the populace within the States.

NHTSA is committed to ensuring that States have the assistance necessary to help in implementing the public engagement requirements. In October 2022, DOT published a guide titled ''Promising Practices for Meaningful Public Involvement in Transportation Decision-Making.'' [12] NHTSA recently hired two staff members dedicated to providing technical assistance to States on outreach and engagement efforts and will provide a suite of resources in this area in coordination with NHTSA's Office of Civil Rights, which provides technical assistance regarding Title VI and other Federal civil rights laws. Shortly after the issuance of this final rule, NHTSA will conduct webinars discussing meaningful public engagement and involvement.

B. Triennial Highway Safety Plan (23 CFR 1300.11)

The triennial HSP documents the State's planning for a three-year period of the State's highway safety program that is data-driven in establishing performance targets and selecting the countermeasure strategies for programming funds to meet those performance targets. As the CT HSO reiterated in its comments, the triennial HSP is intended to focus on program-level information. It serves as the long-range planning document for State highway safety programs.

GHSA expressed concern that the descriptive elements of the triennial HSP might lead to subjective consideration during NHTSA's review and approval or lead to Regional misinterpretation of the requirements. It recommended that NHTSA establish a sense of the parameters for all descriptive elements. NHTSA provided significant clarification regarding some of these elements in the preamble to the NPRM and provides more clarification below. However, it is also NHTSA's intention to leave flexibility for States to structure their triennial HSPs in the manner that best reflects the data and resources of the State. And, since a State's triennial HSP is essentially a document customized to its own needs, based on problem identification within its borders, NHTSA is avoiding being overly prescriptive and taking a one-size-fits-all approach to review of these documents.

1. Highway Safety Planning Process and Problem Identification (23 CFR 1300.11(b)(1))

AAMVA expressed support for NHTSA's decision in the NPRM not to specify problem areas that States must consider in triennial HSP problem identification, but instead to provide States with the flexibility to identify problems based on the data. AAMVA further noted that States will likely explore non-conventional data sources in response to this rulemaking and requested that NHTSA provide support and flexibility to States as they establish and refine these data sources. As noted in the NPRM, NHTSA encourages States to consider and use non-conventional data sources (*e.g.,* socio-demographic data) and will provide States with assistance upon request.

As explained in more detail in the annual grant application section below, NHTSA has amended the regulatory text to provide that States should consult geospatial data as part of their problem identification process. 23 CFR 1300.11(b)(1)(ii). This could include consulting location-based data sources to provide insight into the selection of specific roadways and/or intersections to conduct enforcement activities where they are most needed.

Finally, AAMVA also supported NHTSA's view, stated in the NPRM in response to a comment, that it is unnecessary for States to provide a plan for regular data assessments in the triennial HSP, because States are already required to submit annual reports that assess their progress in meeting performance targets.

2. Public Participation and Engagement (23 CFR 1300.11(b)(2))

In BIL, Congress added a requirement that State highway safety programs result from meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities. 23 U.S.C. 402(b)(1)(B). AAMVA and the 5-State DOTs expressed broad support for the new emphasis on public engagement.

GHSA reiterated its prior comment that many States already have successful public engagement initiatives underway, but noted that their strategies have not been effectively shared. It offered to collaborate with NHTSA to support States in implementing broader public engagement and in sharing best practices. AAMVA similarly requested that NHTSA provide guidance to States on how to meet public engagement requirements. The League of American Bicyclists requested that NHTSA analyze State activities in this area and publish a report. GHSA and AASHTO recommended that NHTSA refer to FHWA's experience with the public participation process as it develops its own guidance. NHTSA appreciates this shared commitment to public engagement and looks forward to working with the States and GHSA to share best practices and effective strategies to increase community engagement. As mentioned previously in this document, NHTSA recently hired two staff members dedicated to providing technical assistance to States on outreach and engagement efforts and

[11] 42 U.S.C. 2000d *et seq.,* 78 stat. 252.

[12] Available online at *https://www.transportation.gov/priorities/equity/promising-practices-meaningful-public-involvement-transportation-decision-making.*

will provide a suite of resources in this area in coordination with NHTSA's Office of Civil Rights, including webinars that will be conducted shortly after the issuance of this final rule.

As explained in the preamble to the NPRM, NHTSA structured the public engagement section of the triennial HSP so that States can meet both the BIL requirements and the Title VI Community Participation Plan requirements with the same submission. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin (including limited English proficiency) in any program or activity receiving Federal financial assistance. As implemented through the U.S. Department of Transportation Title VI Program Order (DOT Order 1000.12C), Title VI requires, among other things,[13] that all recipients submit a Community Participation Plan. The purpose of the Community Participation Plan is to facilitate full compliance with the community participation requirement of Title VI by requiring meaningful public participation and engagement to ensure that applicants and recipients are adequately informed about how programs or activities will potentially impact affected communities, and to ensure that diverse views are heard and considered throughout all stages of the consultation, planning, and decision-making process. MN DPS supported NHTSA's efforts to combine the two requirements. GHSA sought clarification about whether States must submit or maintain on file a separate file to fulfill the Community Participation Plan requirements from Title VI. NHTSA confirms that the triennial HSP submission is sufficient to satisfy the Community Participation Plan requirements, and no further documentation is needed for that component of Title VI.

GHSA and the MoDOT argued that the BIL limits the requirement for meaningful public participation and engagement to the ''program,'' interpreting that to refer only to the triennial HSP and countermeasure strategy level *planning,* not to *project level implementation.* On a similar note, AASHTO and the 5-State DOTs expressed concern that States would be required to bring public engagement into all levels of project management, including at the project level. These commenters requested that NHTSA change the proposed regulatory language to make clear that public engagement is only required for program *planning,* not throughout program *implementation and management.* NHTSA disagrees. A State highway safety ''program,'' as described in 23 U.S.C. 402(b), refers to the entire lifespan of the State's highway safety efforts, from planning to project implementation to program evaluation. The public engagement requirements in § 1300.11(b)(2) reflect this, by requiring public participation and engagement not just in the planning processes leading up to the triennial HSP (*see* § 1300.11(b)(2)(i)), but also throughout the life of the grant (*see* § 1300.11(b)(2)(iii)). States must consider community input while planning and implementing projects under the highway safety program, but are not expected to conduct public participation and engagement efforts on a project-by-project basis. For example, a State could conduct public participation and engagement efforts related to its impaired driving program for a fiscal year and then use the input received during those engagement efforts when it implements its impaired driving projects, rather than conducting engagement efforts for each impaired driving project. We have amended the requirement to clarify that the State's statement of starting goals for public engagement needs to include discussion of how the public engagement efforts will contribute to the development of the State's highway safety program as a whole, including countermeasure strategies for programming funds. § 1300.11(b)(2)(i)(A).

Further, § 1300.11(b)(2)(ii)(C) requires the State to discuss how the comments and views received in engagement opportunities conducted for the triennial HSP have been incorporated into the development of the triennial HSP. This also reflects the comprehensive community participation requirements in accordance with Title VI of the Civil Rights Act of 1964 and supports NHTSA's goal of ensuring that the public participation and engagement opportunities that are conducted are meaningful and that equity is a focus throughout all stages of the highway safety grant program. However, NHTSA notes that States will still be able to make management and even programmatic decisions without conducting public engagement opportunities for each decision. The goal is for a State to provide sufficient opportunities for public engagement so that the State can be informed by the input received during those opportunities as it plans, implements, and manages the highway safety grant program.

In order to clarify the stages of public engagement required, NHTSA has reformatted § 1300.11(b)(2) to better identify the components of the State's public participation and engagement submission: (1) triennial HSP engagement planning; (2) triennial HSP engagement outcomes; and (3) ongoing engagement planning. As explained in more detail later, States will later be required to describe the ongoing engagement efforts that they conduct in each grant year in the annual report. *See* 23 CFR 1300.35(b)(2). Limited, non-substantive changes have been made to the regulatory text to accommodate this reorganization. For clarity, we have also written specific requirements for State plans for ongoing engagement in § 1300.11(b)(2)(iii), rather than relying on an internal citation.

The NV OTS commented that the requirement to provide lists of engagement opportunities conducted, with additional descriptive information, is too burdensome. NV OTS argued that such lists could become too extensive for NHTSA to adequately assess and argued that States should only be required to develop an engagement plan with projected activities, not provide details about engagement conducted. Upon consideration, NHTSA agrees that lists of every engagement opportunity conducted may become too voluminous and may not be useful for NHTSA's approval process or for transparency purposes. However, we disagree that States should be allowed to submit only plans, with no requirement to describe engagement actually conducted as part of the triennial HSP planning process. We have therefore amended the regulatory text to require that States must provide narrative assessments and descriptions of their community engagement efforts instead of a list. 23 CFR 1300.11(b)(2)(ii).

MN DPS argued that being required to identify specific engagement efforts would hinder State efforts that are currently underway by requiring States to reengineer existing public engagement plans. AAMVA noted that it agreed with GHSA's comment to the RFC that the volume of comments received would be an inaccurate and unreliable benchmark for public engagement. We note that, while the regulation requires States to describe the engagement efforts conducted, it does not require specific forms of public

[13] For example, consistent with Title VI, the DOT Title VI Program Order also requires that NHTSA conduct a pre-award assessment of each applicant for financial assistance and that every grant recipient have on file a Title VI plan. As these requirements are not specifically part of the triennial HSP or annual grant application, the substance of these requirements has not been incorporated into the rulemaking.

participation and engagement, nor require specified outcomes. However, the agency expects that if a State does not achieve reasonable participation through the participation plan described in the triennial HSP, it will use that experience to inform its plans for continuing public participation during the triennial period and into the next triennial HSP. As long as a State is able to meet the requirements of the triennial HSP and annual report, it may facilitate public participation in the manner best suited to the needs of the State and its communities.

In addition to the comments in response to the RFC on the topic, NHTSA received several comments expressing the need for funding for the BIL's increased public engagement requirements. GHSA, MN DPS and MoDOT requested clarification about whether NHTSA grant funds may be used to support public participation and engagement efforts in general. As NHTSA explained in the preamble to the NPRM, the specifics of whether and how NHTSA grant funds may be used to pay for these types of costs are highly fact specific and implicate many different Federal and State laws and regulations. However, as a general matter, States may use NHTSA grant funds for costs associated with public participation and engagement activities, including activities required to plan and conduct public engagement required for submission of the triennial HSP. Any such costs are Planning and Administration costs and are subject to the allowance for such costs, as laid out in 23 CFR 1300.13(a).

The League of American Bicyclists requested that NHTSA compile information on how States use NHTSA grant funds for purposes of compensating community members for their public participation and publish a report on those uses of funds. GHSA did not think it likely that States would consider compensating participants, but nonetheless sought clarification from NHTSA on whether such compensation would be an allowable use of grant funds. As explained above, whether a specific cost is an allowable use of funds is highly fact specific and subject to many different Federal laws and regulations. Differences in State laws and regulations may also affect whether a State may compensate participants in public engagement efforts. That said, these sorts of costs are potentially allowable uses of grant funds and NHTSA will work with States to determine whether any specific participation costs are allowable. Since no States currently use NHTSA grant funds for this purpose and it is unknown if any States will do so, NHTSA has no plans to publish a report at this time.

3. Performance Plan (23 CFR 1300.11(b)(3))

The BIL continues to rely on performance measures as a fundamental component of State highway safety program planning in the triennial HSP. The BIL maintains the existing structure that requires States to provide documentation of the current safety levels for each performance measure, quantifiable performance targets for each performance measure, and a justification for each performance target.

The BIL provides that States must set performance targets that demonstrate constant or improved performance and provide a justification for each performance target that explains why the target is appropriate and evidence-based. 23 U.S.C. 402(k)(4)(A)(ii) and (iii). As NHTSA explained in the preamble to the NPRM, the requirement for constant or improved performance will facilitate open discussions about desired safety outcomes and how to allocate resources to reach those outcomes. In an era of increasing fatalities, it is vital that performance targets offer realistic expectations that work toward the long-term goal of zero roadway fatalities and provide a greater understanding of how safety issues are being addressed. Roadway deaths are unacceptable and preventable; we must all work toward making the goal of zero roadway fatalities a reality, and performance management is a vital tool for making that happen.

Several commenters [14] reiterated arguments they made in response to the RFC that requiring targets showing constant or improved performance is contrary to the requirement that targets be appropriate and evidence-based, and asked that NHTSA explain how a State can set a data-driven target if the evidence does not demonstrate constant or improved performance. GHSA disagreed with NHTSA's response in the NPRM, which explained that States should consider different countermeasure strategies or adjust funding within a countermeasure strategy in order to achieve constant or improved performance. GHSA argued that States do not have unlimited resources to do so, nor do they have an unlimited menu of acceptable countermeasures. Instead, GHSA requested that, if a State's data analysis shows that an appropriate target would not demonstrate constant or improved performance and the State cannot allocate additional resources, NHTSA should nonetheless allow that State to adjust the target to be ''constant.'' The agency recognizes that resources are not unlimited, but the BIL greatly expanded highway safety grant funds available to the States, providing a more than 30 percent increase. The traveling public has a right to expect that the nearly 4 billion dollars in highway safety grant funding authorized by the BIL will result in fewer lives lost on our Nation's roadways. With that in mind, lack of resources is not an acceptable justification for failure to demonstrate constant or improved performance, and NHTSA will not label as ''constant'' any target that demonstrates worsening performance.

NHTSA also disagrees with the implied premise that States lack the ability to influence safety numbers and stands by our prior response; performance targets are inextricably tied to countermeasure strategies for programming funds. Targets should reflect the outcomes that States expect to achieve after implementing their planned programs. If a projected outcome shows worsening safety levels, then the State needs to change its planned program either at or below the countermeasure strategy level. States receive highway safety grant funds in order to achieve important safety outcomes. NHTSA strongly encourages States to consider innovative countermeasure strategies as long as they are consistent with Federal statutes and regulations; we have seen States implement several such strategies successfully in the past.

Some commenters [15] requested that, in order to meet the requirement to set data-driven targets that show constant or improved performance, States be allowed to ''reset'' targets based on recent data. These comments suggest a belief that States must set ever-lower performance targets every triennial cycle, regardless of the data at the time the triennial HSP is submitted. Such a construction would divorce performance management from the underlying data. NHTSA has therefore added regulatory language to make clear that States must set performance targets that show constant or improved performance compared to the safety levels, based on the most currently available data, not based on the target from the prior triennial HSP. 23 CFR 1300.11(b)(3)(ii)(B). This will serve as a constructive ''reset'' of performance targets based on documented safety levels for each triennial HSP. This clarification should also resolve the CT

[14] AASHTO, GHSA and MN DPS.

[15] AASHTO, CT HSO, and GHSA.

HSO's concern that States not be penalized for failure to meet measures that were inflated due to being set based on prior targets that don't reflect current safety levels.

Several commenters expressed concern that States will face penalties if they fail to meet aggressive targets. Section 402 requires States to assess in both the triennial HSP (23 U.S.C. 402(k)(4)(E)) and the annual report (23 U.S.C. 402(l)(2)) the progress made in achieving performance targets in the annual grant application the means by which the State's countermeasure strategy for programming funds was adjusted and informed by that assessment (23 U.S.C. 402(l)(1)(C)), and NHTSA is required to publicly release an evaluation of State achievement of performance targets (23 U.S.C. 402(n)(1)). However, there are no monetary or programmatic penalties for failure to achieve a performance target in NHTSA's highway safety grant program. GHSA requested that NHTSA acknowledge that failure to meet performance measures reflects poorly on State programs and that they may face additional administrative steps (the required assessment and adjustment of countermeasure strategies). AASHTO noted that added administrative burdens have cost and resource impacts. The MoDOT argued that performance targets are not performance predictions and requested that NHTSA acknowledge that failure to meet performance targets does not mean that a State's programs are ineffective. NHTSA believes that performance measures bring transparency to the safety outcomes of State programs and can be helpful to States in planning a program designed to help them meet performance targets. NHTSA acknowledges that this transparency may sometimes be uncomfortable for a State, but believes it is vital to ensuring that highway safety programs produce meaningful improvements every year.

As GHSA notes, States are required to describe plans to adjust their countermeasure strategies for programming funds if they are not on track to meet performance measures. However, we disagree with labelling such work a penalty; it is a response designed to address an identified safety problem that has not been resolved and to encourage redirecting the investment of funds to better meet performance targets. NHTSA and the States share the common goal of reducing highway fatalities and injuries. It is our joint responsibility to deploy grant funds squarely toward that end. NHTSA challenges States to think creatively and critically about ways to improve the safety outcomes of their programs.

NHTSA received many comments specifically related to the common performance measures that States also report annually to FHWA for the State highway safety improvement program (HSIP).[16] AASHTO, the CT HSO, and the MN DPS all recommended that NHTSA collaborate with FHWA, GHSA, and AASHTO to reevaluate how performance measures are established and used and to assist States in complying with both NHTSA and FHWA performance requirements. NHTSA appreciates this suggestion and will continue to work closely with these partners to provide needed technical assistance to States.

Many commenters [17] stated that the common performance measures should focus only on variables within the direct control of the State highway safety office. They explained that common measures, such as total fatalities and injuries, are dependent on many factors and that the SHSO focuses only on behavioral aspects of traffic safety. As stated in the NPRM, NHTSA disagrees that the common performance measures should be so narrowly focused. While we recognize that the common measures are impacted by many variables, the SHSO and its programs are an integral part of those overall safety numbers. The SHSO, under the auspices of the Governor, is expected to coordinate the triennial HSP, annual grant application, and highway safety data collection and information systems activities with other federally and non-federally supported programs in the State relating to or affecting highway safety, including the State strategic highway safety plan (SHSP). 23 CFR 1300.4(c)(11). The common measures show the overall highway safety outcomes in the State, including the programs implemented by the SHSO. For context, we also note that the common measures are only three of many performance measures: there are three common measures, fourteen minimum measures, and States are always encouraged to develop their own additional measures for problems not covered by existing performance measures.[18] The minimum performance measures created in cooperation with GHSA focus more specifically on areas within the SHSO control.

AASHTO expressed appreciation for NHTSA's proposal that States be allowed to update the targets for the three common performance measures in the annual grant application. *See* 23 CFR 1300.12(b)(1)(ii). It asked how States should reflect those changes in the triennial HSP. The annual grant application includes a section for updates to the triennial HSP. *See* 23 CFR 1300.12(b)(1). Upon approval of the annual grant application, any changes that a State makes to the triennial HSP under that provision will be presumed by NHTSA to be incorporated into the triennial HSP and will not require any further efforts on the part of the State to amend the triennial HSP itself.

AAMVA and GHSA requested that NHTSA and GHSA work together to update the minimum performance measures that were developed in 2008 [19] in accordance with 23 U.S.C. 402(k)(5). In contrast, the 5-State DOTs reiterated that they do not believe any new performance measures are required. NHTSA intends to convene meetings with stakeholders and to collaborate with GHSA to update the minimum performance measures well in advance of the FY 2027 triennial HSP submission date. NHTSA will draw all of the comments received under this rulemaking into that effort and will seek further input from these and other groups at that time. As we did previously, NHTSA commits to publishing the proposed minimum performance measures in the **Federal Register** for public inspection and comment. For the purposes of the FY24 triennial HSP, States are encouraged to develop additional measures, consistent with 23 CFR 1300.11(b)(3)(iii), for problems identified by the State that are not covered by existing minimum performance measures.

AASHTO reiterated its comment to the RFC, stating that the regulation should more clearly vest target establishment authority in the States, arguing that it is inconsistent to require NHTSA approval for performance targets when 23 U.S.C. 150(d)(1) provides States with authority to establish targets for the HSIP without FHWA approval. AASHTO argued that NHTSA cannot appropriately rely on the reasoning set forth by FHWA in its final rule for the National Performance Management Measures: Highway Safety Improvement Program, which set out

[16] Common performance measures are set out in 23 CFR 490.209(a)(1) and 23 CFR 1300.11.

[17] AASHTO, AAMVA, GHSA, MN DPS, and MoDOT.

[18] In fact, States are required to submit performance measures for any program area for which a minimum performance measure does not already exist (for example, distracted driving), because all projects funded with NHTSA grant funds must be tied to a countermeasure strategy for programming funds that is addresses a performance target in the triennial HSP. *See* 23 CFR 1300.12(b)(2)(ix) and 23 CFR 1300.11(b)(4)(iii).

[19] ''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025) (Aug. 2008).

the parameters of the common performance measures,[20] because the statutes have changed since that time. However, the *relevant* portions of those statutes have not changed. Regardless, as we noted in the NPRM, NHTSA does not have the discretion to override the statutory requirement for approval or disapproval of triennial HSPs, including the performance measures contained therein. *See* 23 U.S.C. 402(k)(6).

4. Countermeasure Strategy for Programming Funds (23 CFR 1300.11(b)(4))

The BIL requires each State to submit, as part of the triennial HSP, a countermeasure strategy for programming funds for projects that will allow the State to meet the performance targets set in the triennial HSP. 23 U.S.C. 402(k)(4)(B–D).

GHSA noted that NHTSA seems to use the terms ''countermeasure'' and ''countermeasure strategy for programming funds'' inconsistently throughout the regulation, occasionally using ''countermeasure'' where GHSA believes it should read ''countermeasure strategy for programming funds''. Upon reviewing the regulatory text, NHTSA found one instance where the terms were used in an unclear context and has amended the regulatory text in § 1300.11(b)(4)(ii)(B) to refer to ''countermeasures'' rather than ''countermeasure strategies.'' The term ''countermeasure'' is used singularly in several of the Section 405 grant sections; however, NHTSA confirms that those uses are appropriate based on the statutory text and intent.

For each countermeasure strategy, the State must provide: (1) identification of the problem ID that the countermeasure strategy addresses and a description of the link between the problem ID and the countermeasure strategy; (2) a list of the countermeasures that the State will implement as part of the countermeasure strategy, with justification supporting the countermeasures; (3) identification of the performance targets the countermeasure strategy will address with a description of the link between the countermeasure strategy and the target; (4) a description of the Federal funds the State plans to use; (5) a description of the considerations the State will use to determine what projects to fund to implement the countermeasure strategy; and (6) a description of the manner in which the countermeasure strategy was informed by the uniform guidelines issued by NHTSA in accordance with 23 U.S.C. 402(a)(2). § 1300.11(b)(4).

NHTSA received many comments related to the requirement to provide justification supporting countermeasures that are included in a countermeasure strategy for programming funds. *See* 23 U.S.C. 402(k)(4)(C) and 23 CFR 1300.11(b)(4)(ii). As a preliminary matter, NHTSA points out that this provision is largely similar in substance to the requirements under the FAST Act, in which States were required to provide justification supporting the potential effectiveness of innovative countermeasures as they relate to the problem identified. NHTSA proposed two changes to the requirement in the NPRM: (1) the agency provided that any countermeasure rated 3 stars or higher in *Countermeasures That Work* are proven effective and do not require justification; and (2) the agency added data and data analysis to the requirements for supporting an innovative countermeasure. The requirement to provide data and data analysis is taken directly from the BIL, which requires States to provide data and data analysis supporting the effectiveness of proposed countermeasures. *See* 23 U.S.C. 402(k)(4)(C).

The CT HSO, DE OHS, GHSA, MN DPS, and MO DOT argued that requiring States to provide justification for countermeasures not identified as 3 stars or above in *Countermeasures That Work* adds an unnecessary burden on states and would stifle innovation. The League of American Bicyclists expressed concern that the requirement would encourage States to focus on countermeasures in *Countermeasures That Work* at the expense of other promising countermeasures. The League of American Bicyclists and GHSA both noted that this could incentivize States to conduct more enforcement. GHSA recommended that NHTSA allow States to cite to the Uniform Guidelines for State Highway Safety Programs [21] and to recommendations in NHTSA-affiliated program assessment reports. NHTSA reminds commenters that the requirement to justify countermeasures derives from the statute. In exempting countermeasures rated 3 stars and above from the requirement to provide justification of effectiveness, NHTSA sought to limit the burden on States by not requiring each State to provide independent justification for countermeasures that have already been proven over time. To further that goal, NHTSA has adopted GHSA's suggestion to also exempt countermeasures included in the Uniform Guidelines and as recommendations in NHTSA-affiliated program assessment supports. § 1300.11(b)(4)(ii)(A). NHTSA encourages innovation and urges States not to rely overly on the same set of countermeasures that have not produced positive programmatic change to date, even if they are rated 3 stars or above. Even though these countermeasures are exempted from the requirement to provide independent justification of effectiveness, as with all countermeasure strategies, States must still describe the link between the problem identification and the countermeasure strategy and the link between the effectiveness of the countermeasure strategy and the performance target. §§ 1300.11(b)(4)(i) and (iii).

The League of American Bicyclists suggested that NHTSA accept the SSA principles as a justification for choosing countermeasure strategies in the triennial HSP. While NHTSA agrees that the SSA principles are great guiding principles for a State to use in selecting countermeasures, NHTSA notes that principles do not qualify as data and data analysis required to justify the use of a countermeasure.

The DE OHS argued that justification of the effectiveness of innovative countermeasure strategies is better suited to be addressed in the annual report than in the triennial HSP. The MoDOT argued that requiring justification of countermeasures is an overreach by NHTSA, reasoning that SHSOs are responsible for identifying and implementing countermeasures and that NHTSA need only ensure the State administers a compliant program. MoDOT further questioned why States should have to justify countermeasures when they will be evaluated on their ability to meet performance measures. NHTSA reminds the States that the BIL specifically requires States to submit data and data analysis supporting the effectiveness of proposed countermeasures in the triennial HSP. *See* 23 U.S.C. 402(k)(4)(C). However, NHTSA also strongly encourages States to evaluate the effectiveness of all innovative countermeasures after implementation and to share those results with NHTSA and with other States. Furthermore, the statute provides that NHTSA has responsibility for reviewing the triennial HSPs submitted by the States and ensuring that the triennial HSPs satisfy the statutory and regulatory requirements prior to approval. *See* 23 U.S.C. 402(k)(6).

[20] 81 FR 13882, 13901 (Mar. 15, 2016).

[21] *Available online at: https://www.nhtsa.gov/laws-regulations/guidance-documents#52986.*

GHSA and DE OHS sought clarification about the level of detail required to justify innovative countermeasures, requesting that NHTSA keep the requirement similar to the existing requirement for innovative countermeasures under the FAST Act. They cautioned that States should not be required to submit detailed research reports. NHTSA confirms that the level of justification required for innovative countermeasures is fundamentally the same as in the regulation implementing the FAST Act. Commenters may be misinterpreting the level of justification required. For example, a State could cite to a countermeasure from a different program area in the *Countermeasures That Work* and briefly explain why it believes that countermeasure would be similarly effective in the relevant program area. Alternatively, a State could provide a citation to a report on a pilot program carried out elsewhere, or to existing research demonstrating the effectiveness of a strategy in a different context, potentially outside of the highway safety context. To clarify that States are not required to submit research reports, NHTSA has amended the regulatory text to require that the justification use *available* data, data analysis, research, evaluation and/or substantive anecdotal evidence. § 1300.11(b)(4)(ii)(B).

5. Performance Report (23 CFR 1300.11(b)(5))

The BIL requires that the triennial HSP include a report on the State's success in meeting its safety goals and performance targets set forth in the most recently submitted highway safety plan. In order to foster a connection between the triennial HSP and annual reports, NHTSA specified that the performance report in the triennial HSP contain the same level of detail as the annual report. Both AAMVA and GHSA expressed confusion over the level of detail expected for the triennial HSP performance report. GHSA noted confusion because the regulation cites to the entirety of § 1300.35, not just the performance report section at § 1300.35(a), and asked whether NHTSA wants States to combine three years of annual report performance reports into a single analysis.

In order to avoid confusion, NHTSA has removed the internal citation and inserted regulatory language specific to the triennial HSP. 23 CFR 1300.11(b)(5). While the language still mirrors the language for the annual performance report, it has been adjusted to reflect the triennial nature of the analysis. For example, while the annual report focuses on activities conducted during a single grant year, the triennial HSP focuses on countermeasure strategies implemented during the triennial period. NHTSA believes that States will be able to benefit from the yearly analysis they have already conducted in their annual reports when writing their triennial performance reports. As noted in the preamble to the NPRM, for the FY24 triennial HSP, NHTSA expects only analysis of the State's progress towards meeting the targets set in the FY23 HSP.

C. Annual Grant Application (23 CFR 1300.12)

NHTSA received comments on the proposed submission date and components of annual grant applications. We address each of these comments in the respective sections below and make necessary updates to the regulatory language for clarification and simplification.

1. Due Date (23 CFR 1300.12(a))

The MA OGR requested that the due date of August 1 be changed to July 1 and/or that NHTSA reduce the 60-day review period to 30 or 45 days. The MA OGR noted that a due date of August 1, with a 60-day review period, would provide for a September 30 award date, which they argue provides insufficient time for States to award projects starting October 1. The due date of August 1 ensures that both States and NHTSA have adequate time to prepare, submit, and review annual grant applications. As explained in the NPRM, NHTSA proposed a deadline of August 1 to provide States with a due date different from the triennial HSP's July 1 deadline. Requiring both the annual grant application and the triennial HSP to be submitted on July 1 would impose more burden on States during the years when both submissions are required. This approach is informed by comments received in response to the RFC and discussed in more detail in the NPRM. Additionally, the statute affords 60 days for NHTSA to review and approve or disapprove annual grant applications. 23 U.S.C. 402(l)(1)(D). NHTSA notes that our ability to review and ultimately approve applications within the 60-day statutory timeline depends on the quality of the information provided by States. Where possible, we will strive to work with States to expedite the review process.

2. Updates to Triennial HSP (23 CFR 1300.12(b)(1))

As part of annual grant applications, the BIL requires States to provide updates to their triennial HSPs, including a description of the means by which the strategy for programming funds was adjusted and informed by the most recent annual report. 23 U.S.C. 402(l)(1)(C)(iii). In the NPRM, NHTSA fleshed out this requirement by providing that where a State determined in its annual report that it was not on track to meet all performance targets, it must explain either how it will adjust the strategy for programming funds or why it is not doing so. Otherwise, a State must briefly state that it was on track to meet all performance targets. NHTSA appreciates AAMVA's support for streamlining the requirement for States that are on track to meet their performance targets.

In addition, States may make certain changes related to performance measures in the annual grant application. As explained in the NPRM, States may add new performance measures and amend common performance measures. GHSA requested NHTSA to clarify that States are allowed to amend common performance targets, rather than common performance measures as stated in the NPRM. As GHSA noted, States may amend performance targets associated with the common performance measures (*i.e.,* number of fatalities) rather than the measures themselves (*i.e.,* fatality, fatality rate, and serious injuries). NHTSA has made a conforming change to the language at 23 CFR 1300.12(b)(1)(ii) in accordance with this clarification.

The CT HSO stated that any updated data analysis should be required only in the triennial HSP, not the annual grant application. It is not clear to what data analysis the State is referring; however, NHTSA notes that States provide all updates to the triennial HSP via the annual grant application under the new triennial framework. Functionally, it is the same as updating or amending the triennial HSP itself.

GHSA, joined by the MN DPS, repeated its previous comment that the statute clearly provides that it is the State, not NHTSA, that determines when updates to the triennial HSP are necessary. As explained in the NPRM, NHTSA disagrees with this interpretation. The statute provides that an annual grant application must include any necessary updates to analysis in the State's triennial HSP. 23 U.S.C. 402(l)(1)(C)(i). The statute, however, is silent as to who determines what updates to analysis are necessary. While the statute allows a State to include such updates, it does not limit the determination of whether those updates are sufficient to States. The statute requires NHTSA to approve or disapprove a State's annual grant

application in part on the basis of whether it demonstrates alignment with the approved triennial HSP. 23 U.S.C. 402(l)(1)(A)(i). Updates to analysis in the State's triennial HSP may be necessary in order to demonstrate that the annual grant application aligns with the triennial HSP, as required by the BIL. *See* 23 U.S.C. 402(l)(A)(i). NHTSA will not approve an annual grant application that is inconsistent with the approved triennial HSP.

3. Project and Subrecipient Information (23 CFR 1300.12(b)(2))

The BIL requires States to submit, as part of their annual grant application, identification of each project and subrecipient to be funded by the State using grants during the fiscal year covered by the application. The statute further provides that States may submit information for additional projects throughout the grant year as that information becomes available. *See* 23 U.S.C. 402(l)(C)(ii).

To satisfy those statutory requirements, States must submit the following information in their annual grant applications: project name and description, Federal funding source(s), project agreement number, subrecipient(s), amount of Federal funds, eligible use of funds, identification of Planning and Administration costs, identification of costs subject to Section 1300.41(b), and the countermeasure strategy for programming funds that the project supports. 23 CFR 1300.12(b)(2). These requirements ensure that NHTSA is able to understand whether the identified projects are sufficient for the State to carry out the countermeasure strategies in the triennial HSP, to identify projects against later submitted vouchers, and to meet statutory transparency requirements.

GHSA requested clarification about several items to be included in the project and subrecipient information. GHSA asked what NHTSA means by ''eligible use of funds'' and the level of detail that States will be expected to provide. NHTSA's purpose in including this information in the annual grant application, as well as in State vouchers (*see* 23 CFR 1300.33(b)(3)), is to facilitate transparency in the use of NHTSA grant funds, to ensure consistency between planned and actual project expenses, and to facilitate verification of allowability of costs within specific program areas. For example, there are six specific eligible uses of Section 405(b) Occupant Protection Grants. *See* 23 CFR 1300.21(g)(1). One such eligible use is ''to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection''. 23 CFR 1300.21(g)(1)(ii). For projects on occupant protection training, States should notate this specific eligible use as *Occupant Protection Training* and ensure that the project description includes the nature of the training and the intended audience. This same eligible use notation would apply to projects using Section 402 grant funds for occupant protection training. As another example, there are two eligible uses of Section 402 grant funds for automated traffic enforcement (school zone or work zone). *See* 23 CFR 1300.13(g). Projects using Section 402 grant funds for automated traffic enforcement in a school zone should notate the eligible use as *Automated Traffic Enforcement—school zone* and ensure that the project description includes the appropriate information per 1300.12(b)(2)(i). If a State is uncertain about a specific use of funds, we encourage the State to reach out to the Region for assistance.

Next, GHSA requested that NHTSA clarify the requirement at 23 CFR 1300.12(b)(2)(viii), which requires States to identify whether a project will be used to meet the requirements of § 1300.41(b) (commonly referred to as promised projects). NHTSA confirms GHSA's understanding that States must identify whether the State is committing unexpended grant funds that would otherwise be deobligated and lapsed to a particular project consistent with § 1300.41(b).

GHSA also sought clarification about how States should organize information on the countermeasure strategy that the project supports, and asked for flexibility. States may format their project list by grouping projects based on the countermeasure strategy. It is incumbent on States to ensure that they submit all required information in an organized manner to minimize delays in NHTSA's review and avoid the need for follow-up information.

In the NPRM, NHTSA proposed to include zip codes as an example of information that may be provided as part of a project description. In addition, NHTSA proposed to require States to provide zip codes for all projects in the annual report and sought comment on whether there is a better metric for obtaining relevant location information for projects. In response, the DE OHS, GHSA, and MN DPS expressed concern that providing zip code information in annual grant applications and annual reports would impose an excessive burden on States and suggested finding a more efficient way to collect location data. NHTSA appreciates the feedback but also emphasizes that it is our responsibility to ensure that project information is consistent with States' triennial HSPs. As noted by the CT HSO, NHTSA's intent in proposing zip code information was to identify the location where a project is taking place, and location information is essential for NHTSA to verify that States are executing projects in the areas identified by the problem identification and/or countermeasure strategies in their triennial HSPs. However, NHTSA agrees that zip code information might not be the most relevant data point or may be cumbersome for States to compile, depending on project type. Accordingly, to avoid an unnecessary burden on States, we have removed specific references to zip codes from both the annual grant application and annual report sections of the regulation. Instead, NHTSA has amended the regulatory text to provide that States must provide information on the location where the project is performed as part of the project description in the annual grant application (which may include zip codes), but leaves it to the State's discretion what form this location information takes. § 1300.12(b)(2)(i).

NHTSA expects that States will provide information at the lowest geographic level applicable to each project. NHTSA notes that, consistent with the Federal Funding Accountability and Transparency Act (FFATA), States are already required to separately report the location of both the entity receiving the subaward and the primary location of performance for all subawards of $30,000 and above.[22] As previously mentioned, in order to ensure that States include location information in their triennial HSP problem identification, NHTSA has amended the data sources that a State should consult for problem identification to include geospatial data. § 1300.11(b)(1)(ii).

Finally, NHTSA has made a technical amendment to rearrange the order of required project information so that Federal funding source(s) is now the second required information item. 23 CFR 1300.12(b)(2)(ii). NHTSA believes this will better reflect the connection States place between project descriptions and the funding source.

[22] Public Law 109–282, as amended by section 6202 of Public Law 110–252. Implemented at 2 CFR part 170.

4. Amendments to Project and Subrecipient Information (23 CFR 1300.12(d))

As is explained in more detail in the annual report section, below, NHTSA is amending § 1300.12(d) to provide that all project information in the annual grant application must be complete at the time the State submits the annual report consistent with § 1300.35.

D. Special Funding Conditions for Section 402 Grants (23 CFR 1300.13)

1. Planning and Administration (P & A) Costs (23 CFR 1300.13(a))

Three commenters [23] reiterated comments in response to the RFC requesting that NHTSA increase the percentage of funds that can be allocated to Planning and Administration (P & A) costs from 15% to 18% to cover increased costs due to the new BIL planning requirements, inflation, and the competitive employment market. GHSA further explained that this increase would give States greater flexibility in determining whether to fund staff programmatically or through P & A. NV OTS noted that the increase would help States like Nevada that need to maintain two separate offices for the HSO. In response to these last two points, the agency notes that whether highway safety staff is funded programmatically or through P & A is not dependent on the amount of funds available but rather on specific roles and duties, and NV OTS's maintenance of two separate offices for the HSO is not a requirement imposed by NHTSA. However, after considering these comments in light of new BIL requirements, NHTSA is increasing the States' allowance for P & A costs to 18 percent to help offset rising costs and to ensure that States have sufficient resources to fully implement the planning and public engagement requirements in the BIL. The agency expects that this P & A funding increase will lead to fulsome implementation of the new longer-range planning structure created by the BIL and robust public engagement efforts.

2. Participation by Political Subdivisions (Local Expenditure Requirement) (23 CFR 1300.13(b))

NHTSA is committed to ensuring that local political subdivisions are an integral and valued part of State highway safety programs. Local participants have unique knowledge of the specific safety problems and a close connection to the communities that are ultimately served by the programs funded by the highway safety grants. It is clear that Congress shares this goal, as evidenced by the longstanding statutory requirement that 40 percent of Section 402 grant funds apportioned to a State be expended by the State's political subdivisions to carry out local highway safety programs. *See* 23 U.S.C. 402(b)(1)(C). This statutory provision necessarily requires specific administrative effort to ensure that political subdivisions receive their share of Federal highway safety grant funds. The BIL amended the operation of this provision by removing the requirement that the local highway safety programs to be funded be approved by the Governor while retaining the rest of the local expenditure requirement. In response, the NPRM proposed a new framework for this statutory requirement.

GHSA expressed general support for reform of the local expenditure requirement provided it resulted in less burden for States and subrecipients. However, GHSA took issue with NHTSA's view that the BIL amendment nullified one of the existing regulatory avenues for States to demonstrate participation by political subdivisions, stating that political subdivisions should still be allowed to request safety expenditures on their behalf. NHTSA disagrees. The prior construction of the requirement depended on a request by a political subdivision that was connected to an approved local highway safety program. Without that connection, there is no remaining link to demonstrate substantive political subdivision participation. Moreover, the BIL's amendments were not the only impetus for reconceptualizing the regulatory implementation of the local expenditure requirement. As noted in the NPRM, the proposed change was also informed by the new triennial framework for highway safety programs, NHTSA's historical experience administering this requirement, and comments received through the RFC (addressed in the NPRM).

Several commenters [24] stated that the new process would increase burdens for States and localities by creating unnecessary administrative requirements. Congress' imposition of a local expenditure requirement necessarily adds procedural responsibilities that States must address. In NHTSA's view, active participation in the selection of projects by the citizenry in local jurisdictions is a desirable objective that should be welcomed in efforts to deploy grants to improving highway safety. NHTSA recognizes that this requirement poses some challenges, but believes that the proposed procedures are less burdensome than commenters fear. Below, we walk through these procedures.

States have three methods to demonstrate that expenditures qualify as local expenditures: (1) direct expenditure by a political subdivision; (2) expenditure on behalf of a subdivision where the political subdivision is involved in the highway safety planning process; (3) expenditure on behalf of a political subdivision where the political subdivision directs expenditure through a documented request.

The first method—direct expenditures—requires no further explanation because it is well-understood by States and political subdivisions and unquestionably falls within the statutory requirement. However, NHTSA has long recognized that in some cases, it may be advantageous for political subdivisions to allow States to expend grant funds on their behalf. This enables smaller political subdivisions that may have fewer resources to direct grant funds toward their highway safety needs and allows political subdivisions, in general, to benefit from the economies of scale that a State-run program can provide. That said, because the statute provides that funds must be expended by political subdivisions, it is incumbent on NHTSA and the States to ensure that there is adequate documentation that the political subdivision was involved in identifying its traffic safety needs and provided input into the implementation of the activity. Following are examples of how a State can demonstrate that expenditures on behalf of a political subdivision qualify as local expenditures.

Under the second method identified above, the State may provide evidence that the political subdivision was involved in the State's highway safety program planning processes. States can incorporate this into existing processes, such as the public participation component of the triennial HSP, the planning process to determine projects for annual applications, or during the State's ongoing program planning processes. For example, a representative of a local school board might attend a virtual public engagement session for the State's triennial HSP planning process and speak to the need for impaired driving educational programs to be provided to students in that district. The input by the school board at that time could simply consist of a broad statement of need for an

[23] GHSA, MN DPS, and NV OTS.

[24] DE OHS, GHSA, MN DPS, and NV OTS.

educational program related to impaired driving in that district. If the State wanted to determine whether other school districts had a similar need, it could plan a specific virtual public engagement on the need for educational programs in schools and invite all school districts in the State or regions of the State to participate. The State would enter into projects based on the identification of need and implementation notes by the school board during the planning process. Finally, to ensure that the activities implemented meet the needs of the specific political subdivision, the State would obtain written confirmation of acceptance by the school board for the project that the State implements.

Under the third method described above, the State may demonstrate that a political subdivision directed the expenditure of funds through a documented request by the political subdivision for an activity to be carried out on its behalf. As noted in the NPRM, the request need not be a formal application, but must contain a description of the political subdivision's problem identification and a description of how or where the activity should be deployed within the political subdivision. For example, a representative of a town's government could submit a request to the SHSO via letter or email showing that the town has increased traffic crashes associated with a large sporting event held in the area and requesting increased enforcement to be conducted by the State's highway patrol during those events. It might also request that the State carry out an accompanying media campaign leading up to and during those times. If the town government has trouble identifying the data to document the problem, the State may offer technical assistance.

The key in all situations where the State is relying on expenditures on behalf of political subdivisions to qualify as a local expenditure is the connection between the need identified and activity requested by the political subdivision and the project that the State, or another entity, carries out on the political subdivision's behalf.

Some comments suggest a misunderstanding of the fundamental premise of the local expenditure requirement. NV OTS argued that it is too difficult for the State to process and for NHTSA to verify documentation that supports the required political subdivision involvement, and argued that NHTSA should allow States to allocate resources based on problem identification without the burden of proving political subdivision involvement. MoDOT argued that NHTSA should allow statewide programs with local benefit to qualify as local expenditure. However, it was clearly the intent of Congress, sustained over decades, that State highway safety programs ensure that Federal funds make their way into the hands (and decision-making authority) of political subdivisions. The new BIL requirements concerning public input only serve to reaffirm and amplify this interest in greater participation in decision-making, and NHTSA has a responsibility to ensure that this statutory command for local participation is effectively carried out. The statutory requirement is focused on the *expenditure* of funds by political subdivisions, not merely on local benefit.

Several commenters [25] argued that many localities do not have sufficient resources to participate in the highway safety planning process or to submit a detailed request for expenditures on their behalf and worried that the new requirements would risk losing local participants in State highway safety programs. The requirement for local participation is not inherently burdensome for local participants, and in any event, is an obligation imposed by statute. The State is simply required to obtain identification of need and a request for activities to be conducted, whether during the State's highway safety planning process or as a direct request from the political subdivision. A State could even solicit requests, and provide a template for requests from political subdivisions. Under the BIL, as before, States have a responsibility to ensure that political subdivisions have the ability to participate in the highway safety program. Whether it is at the planning level, via the meaningful public engagement requirement, or through a request that the State execute a project on behalf of a political subdivision, States have many opportunities to work with localities to support their needs and meet the local expenditure requirement. States can and should conduct outreach and provide assistance to locals throughout the planning and project development such processes, and NHTSA is available to assist States in these efforts.

GHSA requested that NHTA allow groups of localities to request expenditures on their collective behalf. MN DPS explained that in many grants, multiple local agencies partner to conduct activities and that it would be difficult for the State to have each participating political subdivision participate in the triennial HSP planning process. NHTSA notes that the proposed definition of political subdivision adopted in this rule includes associations comprised of representatives of political subdivisions acting in their official capacities. Similarly, a group of localities may submit a joint request for activities that meets the requirements of § 1300.13(b)(3)(ii), so long as it is signed by each locality or a duly authorized representative of the group.

GHSA also noted that States have found more efficient ways of reaching localities than the local expenditure mechanism by using agreements with non-profit entities. NHTSA notes that a State may use an agreement with a non-profit entity to carry out expenditures on behalf of political subdivisions provided there is sufficient documentation under § 1300.13(b)(3) to demonstrate that the political subdivisions were involved in identifying their traffic safety needs and provided input into the implementation of the activity.

Finally, in response to a comment to the RFC, the NPRM noted that State-sponsored communication efforts tied to high visibility enforcement (HVE) campaigns may never qualify as local expenditures. Several commenters [26] expressed strong disagreement with this position, arguing that media campaigns are an integral part of high visibility enforcement whose benefits extend to localities throughout the State. The agency notes that it is possible for some costs under a program to qualify as local expenditures while other costs do not. Local law enforcement participation in HVE campaigns via enforcement subawards qualifies as a direct expenditure by political subdivisions. States, however, are directly responsible for carrying out the associated statewide advertising campaigns, although they may do so via a contract. Contracts for statewide HVE media campaigns, even if made with political subdivision, do not qualify as local expenditures because they are, by definition, an extension of State performance. *See* 2 CFR 200.331. NHTSA has added regulatory text to clarify that direct expenditures for media efforts may be credited to political subdivisions only if those expenditures are made under a subaward from the State. Note that this restriction on media campaigns applies only to *statewide* media efforts associated with HVE campaigns. States are encouraged to enter into subawards with political subdivisions to carry out targeted local media campaigns, and the

[25] DE OHS, GHSA, MN DPS, and NV OTS.

[26] CT HSO, DE OHS, GHSA, and MN DPS.

costs of such efforts would qualify as local expenditures.

3. Congressionally Specified Uses of Funds (23 CFR 1300.13(c–g))

The BIL amended the prohibition on funding automated traffic enforcement systems. 23 U.S.C. 402(c)(4). Pamela Bertone urged that laws related to speed camera placement be changed, and also recommended using police officers as ''mobile cameras'' that write digital citations instead of making a traffic stop. Congress and the States—not NHTSA—have the authority to pass laws, and NHTSA lacks the discretion to compel issuance of ''digital citations.'' NHTSA has incorporated BIL language that specifically defines automated traffic enforcement systems as a camera and specifically excludes devices operated by law enforcement officers. *See* 23 U.S.C. 402(c)(4)(A) and 23 CFR 1300.3.

VI. National Priority Safety Program and Racial Profiling Data Collection (Subpart C)

The Section 405 and Section 1906 grant programs provide incentive grants that focus on National priority safety areas identified by Congress. Under this heading, NHTSA responds to comments related to the grants under Section 405—Occupant Protection, State Traffic Safety Information System Improvements, Impaired Driving Countermeasures, Distracted Driving, Motorcyclist Safety, Nonmotorized Safety, Preventing Roadside Deaths, and Driver and Officer Safety Education, as well as the Section 1906 grant—Racial Profiling Data Collection, as applicable.

GHSA reiterated its request under the RFC that NHTSA create a complete qualification checklist for each Section 405 grant program in order to assist States in developing and providing the required information, and clarified that this checklist could be provided as guidance rather than as part of the final rule. The agency again declines to adopt this request. As noted in the NPRM, appendix B is formatted to serve as the application framework for States and provides a list of application requirements at a high level similar to a checklist. However, States remain responsible for reading and complying with the relevant statutory and regulatory text, which contain the full details of application criteria and qualification requirements. A separate checklist could lead States to overlook important aspects of application requirements.

A. General (23 CFR 1300.20)

The 5-State DOTs noted their support for the NPRM provisions that ensure that any unawarded Section 405 grant funds are transferred to the Section 402 program and encouraged NHTSA to retain those provisions in the final rule. This is a statutory requirement and NHTSA retains those provisions without change in this final rule.

B. Maintenance of Effort (23 CFR 1300.21, 1300.22 and 1300.23)

The 5-State DOTs acknowledged that NHTSA removed the Maintenance of Effort (MOE) requirement in the NPRM and requested that NHTSA retain that change. The BIL removed this requirement, and therefore NHTSA retains that change.

C. Occupant Protection Grants (23 CFR 1300.21)

The BIL removed the maintenance of effort requirement that was in effect under the FAST Act, extended the period of time between assessments for the assessment criterion for lower seat belt use states, and expanded the allowable uses of funds under this grant program. In the NPRM, NHTSA proposed amendments to the existing regulatory language to implement those changes and to update existing requirements to align with the new triennial HSP and annual application framework. NHTSA received no comments related to the occupant protection grants and therefore proposes no further changes to the regulatory text in this final rule.

D. State Traffic Safety Information System Improvements Grants (23 CFR 1300.22)

The BIL streamlined the application requirements by allowing States to submit a certification regarding the State traffic records coordinating committee (TRCC) and the State traffic records strategic plan and removing the FAST Act requirement that States have an assessment of their highway safety data and traffic records system. States must still submit documentation demonstrating a quantitative improvement in relation to a significant data program attribute of a core highway safety database. The BIL removed the maintenance of effort requirement that was in effect under the FAST Act and expanded the allowable uses of funds under this grant program.

AAMVA expressed general support for this grant program, including the changes made by the BIL and proposed in the NPRM. AAMVA sought clarification regarding how a State can quantify a previously unavailable data element as a contributing element to a program that previously did not use that data, and sought guidance on how to incorporate new data to augment safety programs. First, NHTSA encourages States to consider making improvements to the completeness or integration of their traffic safety information systems and specifically points States to two NHTSA publications that set forth model minimum data elements in State traffic safety information systems: the Model Minimum Uniform Crash Criteria (MMUCC) and the Model Inventory of Roadway Elements (MIRE). While these publications do not list every single data element that may be useful for a State highway safety program, they provide an important set of data elements for the crash and roadway data systems, respectively, and are a strong tool for greater uniformity between and among State data systems. Second, NHTSA confirms that States may add a new, not previously included, data element to demonstrate the required quantitative improvement for their Section 405(c) applications. Depending on the specific circumstances of the improvement, a State may be able to demonstrate a baseline period consisting of no (or ''zero'') data element paired with a performance period showing either full or partial incorporation of that data element into the system. These clarifications do not require amendments to the regulatory text, so NHTSA makes no changes to the proposed language.

E. Impaired Driving Countermeasures Grants (23 CFR 1300.23)

The BIL made targeted amendments to the impaired driving countermeasures grant programs, with the most significant changes occurring to the interlock grant program, including allowing additional means of compliance and a use of funds section that adds several funding categories.

1. Qualification Criteria for Mid-Range and High-Range States (23 CFR 1300.23(e) and 23 CFR 1300.23(f))

In the NPRM, NHTSA explained the basic requirements for States to receive an impaired driving countermeasures grant. The qualifying criteria in the BIL remain focused on the State's average impaired driving fatality rate and a determination of whether the State qualifies as a low-, mid-, or high-range State. For low-range States, the agency's proposal provides for the submission of assurances, while States with higher fatality rates are required, at a minimum, to establish an impaired driving task force and develop and submit a statewide impaired driving plan. The agency continues the streamlined aspects of the application process, noting that all that is required

is the submission of a single document—the statewide impaired driving plan (in addition to any required assurances and certifications).

The agency explained in the NPRM that it had reviewed the prior implementation of these terms and determined that some changes were necessary to ensure that States with higher average impaired driving fatality rates continue to take a sufficiently comprehensive approach. For the impaired driving plan, required for mid- and high-range States, the proposal specified that the plan should continue to be organized in accordance with NHTSA's Uniform Guidelines for State Highway Safety Programs No. 8—Impaired Driving.[27] The proposal reinforced the concept that overall program management and strategic direction are features of the plan, as well as community engagement and involvement in coalitions. Although States are free to address other related areas, the impaired driving plan must consist of sections covering program management and strategic planning; prevention, including community engagement and coalitions; criminal justice systems; communications programs; alcohol and other drug misuse, including screening, treatment, assessment and rehabilitation; and program evaluation and data. The agency received no comments on the proposed changes to the impaired driving plan.

As part of its proposal, the agency also revised the requirements associated with the statewide impaired driving task force by identifying additional key members, explaining that the fields identified help ensure that the required impaired driving plans remain comprehensive. In addition to key stakeholders from the State highway safety office, State and local law enforcement, and representatives of the criminal justice system, the agency's proposal added stakeholders from the following groups to align with the components of the impaired driving plans: public health, drug-impaired driving countermeasures (such as a DRE coordinator), and communications and community engagement.

In response to these proposed additions, the agency received comments from GHSA, the Coalition of Ignition Interlock Manufacturers, and Mitchell Berger. GHSA thought the inclusion of the additional groups was ''arbitrary'' and identified other groups that could be included as part of a comprehensive task force requirement. GHSA also stated that the change to increase the task force membership was not dictated by the statute and that the agency should show more deference to States on task force membership. Generally, the agency's proposal does defer to States on task force membership and the process by which the task force creates the impaired driving plan. NHTSA's intent was to identify broad stakeholder groups, without imposing other requirements such as experience or background for individuals or even the process by which the State identifies a particular individual to a group. In a few areas, the proposal used terms specific to a particular skillset such as an expert or specialist. Since our intent was to identify broad groups only, these terms have been removed in the final rule. § 1300.23(e)(1)(ii)(E) and § 1300.23(e)(1)(ii)(F).

The agency also continues to defer to the States on the process used to create the plan itself. However, as the agency explained, it reviewed the plan and task force requirements under the BIL to make sure they align with each other and keep pace with the evolving nature of impaired driving problems across the nation. The agency is concerned about the increasing number of impaired driving fatalities, including those that are associated with a rise in drug impairment. When the task force requirement was originally implemented nearly 10 years ago, the agency focused mostly on ensuring that members of law enforcement and the criminal justice system were represented. We understand now that other disciplines must be part of the process. As the agency explained in its proposal, the newly identified groups align with a specific part of the required impaired driving plan—*i.e.,* communications and community engagement respond to the plan requirements on communications and prevention; public health aligns with alcohol and drug misuse; and drug impaired driving countermeasures align with alcohol and drug misuse and criminal justice systems. Although the agency identified specific groups as a minimum baseline, States are free to add other groups.

The Coalition of Ignition Interlock Manufacturers requested that their members be considered as a group for inclusion on task forces as opposed to making a more general reference to ignition interlocks. With the exception of the State highway safety office, the agency has not identified specific groups or organizations for inclusion on task forces under these requirements and we decline to take that approach now. We believe it is more appropriate to maintain flexibility and identify only broad stakeholder areas from which the State are free to select individual members. In addition to the specific areas identified in the requirement, as we have noted in the past, States may consider adding individual members from areas representing 24–7 sobriety programs, driver licensing, data and traffic records, ignition interlock, treatment and rehabilitation, and alcohol beverage control. This is not meant to be an exhaustive list, however, and States retain significant discretion to determine the groups to be represented on the required task force, subject only to ensuring that the specified areas are covered.

Mitchell Berger urged that the task force requirements be revised to include ''behavioral health providers,'' such as ''psychiatrists, child and adolescent psychiatrists, addiction psychiatrists, addiction medicine specialists, psychologists, licensed clinical social workers, licensed professional counselors, and marriage and family therapists.'' He stated that this type of expertise is necessary to address the parts of an impaired driving plan that focus on prevention, screening and treatment. In general, NHTSA agrees that a State should consider adding such expertise to its task force, provided the focus of the task force remains on confronting the problems of impaired driving. In recognition of the value of this and similar expertise, the NPRM includes public health as one of the broad groups that must be represented in some way on the task force, while stopping short of prescriptive language to afford flexibility.

GHSA sought clarification about whether the HSP is the appropriate reference for an Appendix B provision that covers high-range States and their responsibility to submit updated information on an annual basis in the HSP. We confirm that the proposal inadvertently retained the reference to the HSP from the prior rule. The agency has revised the reference to indicate that the updated information must be provided in the annual grant application, consistent with the statutory requirement.

2. Grants to States With Alcohol-Ignition Interlock Laws (23 CFR 1300.23(g))

The NPRM explained that the BIL continued a grant from prior authorizations providing grant funds to

[27] One commenter provided an out-of-scope comment for this rulemaking requesting that the agency revise Guideline No. 8 to be more inclusive of behavioral health providers with more focus on the treatment of alcohol and substance abuse. The agency notes the information provided and will consider it as part of any effort to revise Guideline No. 8.

States that adopted and enforced mandatory alcohol-ignition interlock laws for all individuals convicted of a DUI offense. In addition to the existing qualification criterion, the BIL added two alternate methods of compliance, allowing a State to receive a grant if it restricts driving privileges of an individual convicted of driving under the influence of alcohol or of driving while intoxicated until the individual installs on each motor vehicle registered, owned, or leased an ignition interlock for a period of not less than 180 days; or, separately, if the State requires an individual that refuses a test to determine the presence or concentration of an intoxicating substance to install an interlock for a period of not less than 180 days. The latter criterion also requires the State to have a compliance-based interlock removal program that requires an individual convicted of a DUI to have an interlock installed for not less than 180 days and to serve a minimum period of interlock use without program violations before removal of the interlock. 23 U.S.C. 405(d)(6)(ii)–(iii). Due to some confusion over preamble language in the NPRM, the Coalition of Ignition Interlock Manufacturers and Responsibility.org sought confirmation that the agency's proposal implements three separate compliance methods for the grant. NHTSA confirms that, consistent with the BIL, the NPRM proposes three ways for a State to achieve compliance. In response to these comments, the agency has reviewed its proposal and determined that no changes to the regulatory text are necessary.

3. Use of Grant Funds (23 CFR 1300.23(j))

As noted in the NPRM, the BIL specified the eligible uses of grant funds and the agency's proposal included them without change. The agency received two comments regarding the use of grant funds. The Coalition of Ignition Interlock Manufacturers stated that ''impaired driving enforcement is an activity the agency should aggressively support and fund . . . [and] reject any attempts to redirect funding to other activities.'' The eligible uses of these grant funds under BIL are broader than impaired driving enforcement. States may use impaired driving countermeasures grant funds for any of the purposes identified in the statute. Consistent with its longstanding approach, the agency declines to prioritize the uses and States may use grant funds for any activities that meet applicable requirements.

In developing its proposal, the agency responded to a comment regarding a new BIL provision that allowed grant funding to be used to provide compensation for a law enforcement officer to carry out safety grant activities while another law enforcement officer is temporarily away receiving drug recognition expert training or participating as an instructor in drug recognition expert training (the ''backfill'' provision). The comment sought expansion of the provision to compensate officers who are not involved in grant eligible activities. As the agency explained in the NPRM, the backfill provision allows police agencies to send officers to training without sacrificing overall levels of service, but the law expressly limits compensation to law enforcement officers that carry out *highway safety grant activities.* 23 U.S.C. 405(d)(4)(B)(iii). *Responsibility.org* opposed the approach of limiting funding to compensating officers carrying out safety grant activities. The commenter urged ''NHTSA to reassess the legislative intent authorizing the use of grant funds to allow for backfills to include both safety and non-safety grant activities.''

Where the statute is clear, as it is in this case, the agency does not have authority to follow another approach or expand the statutory language, which is what the comment asks the agency to do. Accordingly, we decline to make this change in the final rule. In NHTSA's view, Congress limited the backfill provision to traffic safety activities so that NHTSA grant funds remain connected to their traffic safety purpose. We note that the traffic safety activities that would allow for compensation need not be limited to alcohol impaired driving countermeasure activities under Section 405d; any NHTSA-funded traffic safety activities may be eligible. However, because the statute hinges the ability to backfill on whether the officer to be replaced is out for DRE training or to serve as a DRE instructor, it is likely in the majority of instances that backfill compensation would apply to impaired driving activities.

F. Distracted Driving Grants (23 CFR 1300.24)

As noted in the NPRM, few States qualified for a distracted driving grant under the statutory requirements of MAP–21 and the FAST Act. The BIL resets the distracted driving incentive grant program by significantly amending the statutory compliance criteria. The statute establishes two types of distracted driving grants—distracted driving awareness on the driver's license examination and distracted driving laws. A State may qualify for both types of distracted driving grants. As proposed in the NPRM, a State may qualify for a distracted driving law with four different types of laws: (1) prohibition on texting while driving; (2) prohibition on handheld phone use while driving; (3) prohibition on youth cell phone use while driving; and (4) prohibition on viewing a personal wireless communications device while driving.

In response to the NPRM, NHTSA received only two comments, both from GHSA regarding technical corrections to Part 6 of appendix B, under the heading ''Prohibition on Viewing Devices While Driving''. The agency accepts those technical corrections, removing the apostrophe from ''driver's'' and aligning the legal citation requirement to match the statutory language to read ''prohibition on viewing devices while driving''. In addition, NHTSA makes an additional technical correction to Part 6 of appendix B—removing the requirement to identify exemptions for State laws banning viewing devices while driving. This correction aligns Part 6 of appendix B with the regulatory text in § 1300.24(d)(4)–(5).

G. Motorcyclist Safety Grants (23 CFR 1300.25)

Under BIL, Congress amended the Motorcyclist Safety Grants by adding a new criterion for a State to qualify for a grant if it has a helmet law that requires the use of a helmet for each motorcycle rider under the age of 18, and made a minor terminology change to ''crash'' from accident in two paragraphs. The NPRM proposed amendments to incorporate these changes and to update references for the new triennial framework. NHTSA received no comments related to the motorcycle safety grants and therefore proposes no further changes to the regulatory text in this final rule.

H. Nonmotorized Safety Grants (23 CFR 1300.26)

The BIL changed the nonmotorized safety grant program with a revised definition of nonmotorized road user to include, not just pedestrians and bicyclists, but also an individual using a nonmotorized mode of transportation, including a bicycle, scooter, or personal conveyance and an individual using a low-speed or low-horse powered motorized vehicle, including an electric bicycle, electric scooter, personal mobility assistance device, personal transporter, or all-terrain vehicle. In addition, the BIL made significant amendments to the use of funds for the

nonmotorized safety grant program, providing States with additional flexibility to use behavioral safety countermeasures that will best address the nonmotorized road user problem, both at the State level and at the local level.

NHTSA received three comments regarding the nonmotorized safety grants. GHSA and the League of American Bicyclists both commented on the requirement to identify projects and subrecipients in the annual grant application. In the NPRM, the agency proposed changing the self-certification as the application for a nonmotorized safety grant that existed under the previous regulation and requiring States to submit a list of project(s) and subrecipient(s) information in the fiscal year of the grant consistent with § 1300.12(b)(2). NHTSA proposed this change to align the application requirements with the other highway safety grants. The League of American Bicyclists agreed with the proposed change stating that this information would improve understanding of funding uses, facilitate comparisons and best practices, and align with other grant programs. GHSA agreed that the proposal aligned with other application requirements, but requested further justification for the additional burden this would impose on States because there were no changes in the underlying statute.

NHTSA disagrees that there were no changes to the underlying statute. Not only did the statute change the definition of nonmotorized user, the basis for determining eligibility for a grant, but it also significantly expanded the eligible use of grant funds for a nonmotorized safety grant. Previously, the FAST Act limited the use of funds to activities related to *State* traffic laws on pedestrian and bicycle safety, such as law enforcement training, mobilizations and campaigns, and public education and awareness programs. However, BIL's broadened eligible use of funds provide States with the flexibility to use behavioral safety countermeasures that will best address the nonmotorized road user problem, both at the State level and at the local level. In addition to aligning with the other grant application requirements, project-level details allow NHTSA to evaluate whether the submitted projects are sufficient to reasonably carry out the countermeasure strategies in the State's triennial HSP and to check for high-level regulatory compliance issues. This information is also be needed to identify projects against later submitted vouchers. Accordingly, NHTSA declines to amend the grant application requirement set forth in the NPRM in response to GHSA's comment.

The League of American Bicyclists also commented that NHTSA should publish or share information on the use of nonmotorized safety grant funds for educational efforts on the interaction between the built environment and behavior. The BIL requires NHTSA to establish a public website that publishes each State's triennial HSP, performance targets, and evaluation of a State's achievement of performance targets. *See* 23 U.S.C. 402(n)(1). The statute also requires that the public be provided a means to search the public website for ''program areas and expenditures''. *See* 23 U.S.C. 402(n)(2)(B)(III). Consistent with this requirement, NHTSA expects to publish information about State expenditures supporting the triennial highway safety plan, including grant expenditures from Section 405 grants, on this public website. No changes to the final rule are necessary in response to this comment.

I. Preventing Roadside Deaths Grants (23 CFR 1300.27)

The BIL created a new preventing roadside deaths grant program, authorizing grants to prevent deaths and injuries from crashes involving motor vehicles striking other vehicles and individuals stopped at the roadside.

HAAS Alert expressed concern that countermeasure strategies for 23 U.S.C. 405(h) are not available in NHTSA's *Countermeasures That Work* and noted that it is unclear when the guidance will be updated to include a section related to preventing roadside deaths. It recommended that NHTSA offer guidance on this program or offer amended or separate guidance as soon as possible to guide State applicants. HAAS Alert also noted that, due to the limited guidance on countermeasures, NHTSA should minimize administrative burden to avoid constricting States and permit maximum flexibility.

As with any new traffic safety program, proven and effective countermeasures may be unavailable at the nascent stages. NHTSA encourages States to use data-driven, innovative approaches, and will support a State that seeks to implement a preventing roadside deaths grant. NHTSA's traffic safety grant programs provide flexibility for States to run programs that respond to their problem identification; however, a State should design a new program that is based on the provisions of the authorizing statute and implementing regulations for effective execution and sustained success.

1. Definitions (23 CFR 1300.27(b))

The MN DPS recommended that NHTSA increase flexibility by using broad language and terms for the preventing roadside deaths grants, taking into consideration the continually evolving technology. Similarly, GHSA recommended that the definition of ''digital alert technology'' be further generalized to better reflect the statute (which does not specify that alerts pertain to vehicles, that the vehicles be stopped at the roadside, or the specific means by which a motorist would receive an alert) and to anticipate future potential technological developments. HAAS Alert suggested that ''digital alert technology'' be expanded to include ''roadside professionals'' other than first responders (State-owned, contracted, or funded fleets and roadside workers like roadside assistance/towing providers, construction and work zone crews, school busses, snowplows, etc.). HAAS Alert added that these ''roadside professionals'' face the same risk as first responders, and drivers must slow down and move over in nearly every State.

NHTSA agrees that the definition of ''digital alert technology'' should not limit the technology to a specific type or be limited to certain locations. By removing such potential limitations, States will have the flexibility to develop innovative strategies to prevent roadside deaths. Accordingly, NHTSA is amending the definition as follows: ''Digital alert technology means a system that provides electronic notification to drivers.'' Note that the agency removed the term ''first responders'' since the statutory language specifically addresses the capability of the technology to reach these road users. We decline to expand the definition to include ''roadside professionals'' as proposed by HAAS Alert, to avoid appearing to single out particular categories of individuals.

GHSA commented that NHTSA does not need a definition of ''public information campaign'' because it is a commonly understood term similar to other terms NHTSA did not define, such as ''educating the public,'' ''paid media,'' ''earned media,'' ''education campaign,'' ''advertising,'' and ''public awareness.'' In contrast to GHSA, HAAS Alert requested that NHTSA specifically clarify that the definition of ''public information campaign'' must include digital alert technology, because HAAS Alert contends that the technology is itself a messaging delivery mechanism for traffic safety issues.

After consideration of these comments, NHTSA retains the definition of ''public information campaign'' as proposed in the NPRM. In our experience, ''public information campaign'' is not a commonly understood term and does not have a uniform meaning among States. NHTSA believes that a definition will provide a baseline for States that will facilitate the education of motorists when using funds pursuant to paragraph 1300.27(e)(2). We also believe that HAAS Alert's proposal to compel digital alert technology would limit States' broad flexibility to educate the public as contemplated by Congress. If NHTSA required a specific mechanism in the deployment of public information campaigns, it would unduly limit options, curtail innovation, and potentially reduce the reach of campaigns to educate the public.

2. Qualification Criteria (23 CFR 1300.27(c))

GHSA commented that the proposal's detailed requirements for the plan that States would be required to submit are similar to the requirements that States would have to meet under sections 1300.11(b) 1, 3 and 4. GHSA proposes that if a State establishes this information and underpins the basis of a roadside safety program in its triennial HSP, it should be able to refer back to the triennial HSP. GHSA contends this is an approach similar to the approach for other Section 405 grant programs, with the project information included in the annual grant application. The MN DPS echoed these comments.

NHTSA's proposed approach for a plan that includes minimum requirements separate from the triennial HSP is consistent with the statute and other 405 grant programs. To obtain a preventing roadside deaths grant, a State must submit annually a plan that describes how the State will use the grant funds. *See* 23 U.S.C. 405(h). Consistent with the statute, NHTSA believes it is appropriate for a State to provide minimum information in the annual grant application, consistent with 23 CFR 1300.12(b)(3), to permit NHTSA to determine whether a State will use the funds appropriately for the fiscal year of the grant. Other 405 grants, such as Occupant Protection, State Traffic Safety Information System Improvement, and Motorcyclist Safety also require the submission of specific performance targets and countermeasure strategies without reference to the triennial HSP. While we have made some minor, non-substantive editorial changes, NHTSA adopts section 1300.27(c) as proposed.

3. Use of Grant Funds (23 CFR 1300.27(e))

NHTSA received three comments related to the use of preventing roadside deaths grant funds from GHSA, the MN DPS and HAAS Alert.

GHSA recommended that NHTSA address whether 1300.27(e)(5) (funding efforts to increase the visibility of stopped and disabled vehicles) authorizes States to purchase equipment or safety items for public distribution as defined in NHTSA's 2016 Guidance on Use of NHTSA Highway Safety Grant Funds for Certain Purchases,[28] such as vehicle reflectivity gear. The MN DPS requested further clarification about the allowable use of funds for all equipment purchases under the grant.

NHTSA declines to address authorization for purchase of specific items of equipment under the preventing roadside deaths grant generally and, specifically, under section 1300.27(e)(5) at this time. As mentioned previously in this preamble, NHTSA recognizes that some existing guidance may require modification or recission as a result of changes to the statute and this rule. We intend to begin reviewing existing guidance after this rulemaking is complete and will consider the comments from GHSA and MN DPS at that time. Until that time, however, we note that the 2016 guidance provides that States may purchase items whose *sole purpose* is to improve highway safety, provided those items are specifically identified in a project agreement and based on problem ID. All equipment purchases must be necessary for the purpose of a project that is based on problem identification, performance measures and targets, and countermeasure strategies, and must be consistent with the provisions in 2 CFR part 200 and 1201, and 23 CFR 1300.31.

HAAS Alert requested that NHTSA amend or remove three types of eligible use (public education, enforcement efforts, and State records) since they are already eligible for funding under other 402 and 405 programs. HAAS Alert speculates that States will allocate their funding to already-existing efforts instead of innovative life-saving equipment. HAAS Alert also commented that less emphasis should be given to enforcement as a traffic safety countermeasure. NHTSA declines to amend, deemphasize, or remove the three types of eligible uses identified in 1300.27(e)(2)–(4), as those three uses are specifically authorized by the statute.

[28] Publicly available on NHTSA's website at *https://www.nhtsa.gov/laws-regulations/guidance-documents.*

J. Driver and Officer Safety Education Grants (23 CFR 1300.28)

The BIL created a new driver and officer safety education grant program, authorizing incentive grants to States that enact and enforce laws or adopt and implement programs that include certain information on law enforcement practices during traffic stops in driver education and driving safety courses or peace officer training programs, or that have taken meaningful steps to do so. 23 U.S.C. 405(i).

The BIL provides that States may qualify for a driver and officer safety education grant in one of two ways: (a) with a current law or program that requires specified information to be provided in either driver education and driving safety courses or peace officer training programs (*i.e.,* law or program State); or (b) for a period not to exceed 5 years, by providing proof that the State is taking meaningful steps towards establishing such a law or program (*i.e.,* qualifying State). 23 U.S.C. 405(i)(4). In the NPRM, NHTSA identified an incorrect reference within the proposed regulatory text, and has amended § 1300.28(g)(3) to provide that any funds remaining after the funding limitation in § 1300.28(g)(2) is applied to qualifying States will be redistributed to States that qualify for a grant under paragraph (d) (*i.e.,* law or program States).

The League of American Bicyclists requested that NHTSA make available to the public any documentation, including curricula, that States submit as part of their application for a driver and officer safety education grant so that the public can analyze the documents provided. They also requested that NHTSA publish a report about the documents submitted with applications for this grant. NHTSA will evaluate whether to publish these materials. NHTSA does not intend to publish a report on the documentation provided in State's application materials at this time, but will keep this request in mind as the needs of the program develop.

K. Racial Profiling Data Collection Grants (23 CFR 1300.29)

The BIL continues the intent of the Section 1906 grant program, first established under Section 1906 of SAFETEA–LU, which is to encourage States to enact and enforce laws that prohibit the use of racial profiling in traffic law enforcement and to maintain and allow public inspection of statistical information regarding the race and ethnicity of the driver for each motor vehicle stop in the State. The BIL revised several aspects of the Section 1906 Program, including by removing

the limitation that a State may not receive a grant by providing assurances for more than 2 fiscal years and amending the limitation on the maximum amount of funds a State may receive under the grant.

The BIL also expanded the allowable uses of the grant funds awarded under the Section 1906 Program by allowing States to expend grant funds to develop and implement programs, public outreach, and training to reduce the impact of traffic stops. The League of American Bicyclists expressed appreciation for the expansion of allowable uses of funds and requested that NHTSA provide additional guidance on how States should differentiate between traffic stops and pretextual stops for the purposes of this grant program. NHTSA never condones a pretextual stop or racial profiling and, through the 1906 grant program, works to encourage States to enact and enforce laws that prohibit racial profiling in traffic law enforcement. When it comes to statistical information regarding the race and ethnicity of the driver in motor vehicle stops, the statute does not differentiate between stops that are pretextual in nature and those that are not. Indeed, the purpose of maintaining and allowing public inspection of data gathered about the race and ethnicity of drivers in *all* motor vehicle traffic stops is a step towards better understanding the problem that needs to be solved.

The League of American Bicyclists also suggested that the new, dedicated technical assistance for the Section 1906 grant program be conducted by a third-party, reasoning that it would provide more insight into best practices, barriers to State use of grant funds, or other issues. Annually, the BIL makes available up to 10 percent of Section 1906 grant funds to provide technical assistance to States. NHTSA is committed to providing technical assistance to States as they work to implement traffic safety programs, including Section 1906, and has many years of experience doing so. As part of this effort, NHTSA is currently in the process of procuring contract support, which may include assistance with information exchanges to discuss needs and opportunities, a repository of best practices, and a suite of assistance tools.

VII. Administration of Highway Safety Grants, Annual Reconciliation, and Non-Compliance (Subparts D Through F)

A. Amendments to the Annual Grant Applications (23 CFR 1300.32)

The CT HSO reiterated its prior comment expressing concern about the amount of time it currently takes NHTSA to approve amendments to the HSP and asked that NHTSA consider changes to requirements for amendments to the annual grant application, such as potentially setting a funding threshold for requiring approval. NHTSA appreciates the feedback and will continue to strive to respond promptly to States. We acknowledge that the new requirement for States to submit project-level information in the annual grant application and to update it throughout the year will likely increase the number of amendments that States need to make and that Regional offices need to approve. In order to reduce this pressure, NHTSA has amended the regulatory language to provide that States may amend certain project level information in the annual grant applications (23 CFR 1300(b)(2)(iii–vii)) without the approval of the Regional Administrator unless prior approval is otherwise required under 2 CFR 200.407. Examples of amendments that require approval under 2 CFR 200.407 are specific costs related to equipment and changes to the amount of Federal funds that are significant enough to change the scope of the effort. The agency will provide further guidance.

With this change, States may amend the project agreement number, subrecipient information, amount of Federal funds, eligible use of funds, and whether the costs are P&A costs. We recognize that details such as these may evolve as a State finalizes implementation of its program, without affecting the fundamental nature and purpose of a project. However, any such changes must be consistent with the project name, purpose, and description, the Federal funding source(s), the countermeasure strategy for programming funds identified for the project, and, as noted earlier, not otherwise require approval under 2 CFR 200.407. NHTSA has also made edits to the title of this regulatory provision and conforming amendments to 23 CFR 1300.23(e)(2) to reflect that not all amendments require approval by the Regional Administrator.

B. Vouchers and Project Agreements (23 CFR 1300.33)

The NPRM proposed that, in addition to the information currently required to be in a voucher, States also provide the eligible use(s) of funds that the voucher covers. 23 CFR 1300.33(b)(3). This addition was intended to ensure that NHTSA has the information necessary to understand the costs that are being vouchered for prior to approving reimbursements and to assist subsequent audits and reviews. GHSA commented that this addition would create substantial administrative burdens for States because they would need to update internal systems in order to add this information. GHSA also noted that this information is already required for the project information that States must include, and update, in the annual grant application.

Vouchers allow both the State and NHTSA to identify details about the expenditures for which a State is seeking reimbursement and to ensure that the expenditures match the project information provided in the State's annual grant application and meet Federal requirements. A voucher is separate and distinct from the project list in the annual grant application because it is tied to specific expenditures for which the State seeks reimbursement at a point in time, and it serves as the official request for reimbursement of expenses. Moreover, at the time of voucher submission, a State must necessarily be deemed to know, with certainty, the expenses for which it is submitting the voucher to the Federal Government. NHTSA therefore does not agree that it would pose a substantial burden for States to provide such information and declines to remove ''eligible use(s)'' of funds from the required voucher information. The information is necessary to ensure a proper audit trail.

We also, as explained above, made a minor edit to the regulatory text to reflect that not all amendments require approval by the Regional Administrator. Finally, we made a technical amendment to ensure consistent terminology related to the requirement for local expenditure.

C. Annual Report (23 CFR 1300.35)

As explained in the NPRM, consistent with OMB rules that apply to all Federal grants,[29] NHTSA has long required each State to submit an annual report providing performance and financial information on the State's activities during the grant year. 23 CFR 1300.35. The BIL codified the requirement and specified that the annual report must include an assessment of the State's progress in achieving performance targets identified in the triennial HSP and a description of the extent to which that progress is aligned with the State's triennial HSP. The BIL also provided that the State must describe any plans to adjust the strategy for programming funds in order to achieve performance

[29] Currently implemented at 2 CFR 200.328 and 200.329 (financial and performance reporting, respectively).

targets, if applicable. *See* 23 U.S.C. 402(l)(2).

GHSA, supported by the MoDOT, reiterated its prior comment requesting that NHTSA limit the annual report to the components explicitly required by the BIL. As NHTSA explained in the NPRM, the annual report serves many purposes for NHTSA's grant program, including implementing government-wide grant reporting rules issued by OMB. The annual report not only satisfies the requirements of the BIL, but it also serves as the State's required annual performance report, consistent with 2 CFR 200.329. It also satisfies the government-wide requirement that Federal award recipients must submit annual financial reports. *See* 2 CFR 200.328.[30] Finally, the contents of the annual report foster transparency in the results achieved with taxpayer funds.

NHTSA sought comment in the NPRM on whether a mandatory template for the annual report would be helpful for States. GHSA stated that the development of annual reports is a longstanding practice that would not benefit from a mandatory template. MN DPS argued that States should be allowed to continue to use their existing templates for annual reports. Based on these comments, NHTSA will not develop a mandatory template for the annual report, but cautions that, while States are welcome to use their own templates, an existing template based on the annual report requirements under the FAST Act will not satisfy the requirements for an annual report under this regulation and will need to be updated. Similar to other grant program submissions, NHTSA expects that the e-grant system that the agency plans to develop may provide a uniform submission format for this requirement in the future.

GHSA, MN DPS, and MoDOT recommended removing the proposed requirement that the annual report include a description of how the projects funded under the prior year annual grant application contributed to meeting the State's highway safety performance targets, and instead only require reporting of overall statewide performance progress. They argued that there is no legal basis to require a project-by-project analysis and that to do so would be burdensome because States have hundreds of individual project agreements. NHTSA agrees that it is not necessary for States to report progress on each project separately, but that the State's assessment must nonetheless cover all activities (which may consist of a group of related projects) implemented by the State during the grant year, including projects carried out via subaward(s). We have amended the regulatory text to clarify that the State's performance assessment must include an analysis of all State activities. § 1300.35(a)(1)(ii). While States must assess the how all projects contributed to meeting the State's performance targets, they may do so by grouping related projects together into a single activity for assessment. Government-wide grant rules require that subrecipients submit performance reports to the State within 90 days of the end of the performance period. 2 CFR 200.329(c)(1). This deadline is intentionally set 30 days prior to the 120-day deadline for State performance reporting so that those results may be incorporated into the overall analysis conducted by the State.

GHSA noted that the proposal requires States to provide an explanation in both the annual grant application and the annual report of how the State plans to adjust countermeasure strategies to achieve performance targets if the State has not met or is not on track to meet those targets. It acknowledged that this duplication is based on the requirements of the BIL, but asked that NHTSA minimize duplication by allowing for high-level strategic planning in the annual report, with project-level plans in the annual grant application. As GHSA acknowledged, the BIL requires States to explain plans to adjust countermeasure strategies in both the annual report and annual grant application. NHTSA does not have discretion to ignore either statutory requirement. However, the two requirements are distinguishable as the State is required to provide *plans to adjust* the countermeasure strategy for programming funds in the annual report, but then to explain how the countermeasure strategy for programming funds was *actually adjusted* in the annual grant application. States have the flexibility to change or adjust their plans in the time between the annual report and the annual grant application, and the nature of their reporting in each of these documents should reflect these nuances.

GHSA provided several arguments for condensing or streamlining the activity report section of the annual report. GHSA requested that NHTSA link the triennial HSP, annual grant applications, and annual reports through implementation of an e-grants system, not through duplicative reporting requirements. Both GHSA and MN DPS requested that NHTSA avoid duplicative reporting requirements and noted that some of the requirements in the activity report duplicate requirements in the annual grant application or vouchers. As explained in more detail below, NHTSA's intent in this rulemaking is to implement the BIL requirements, which include a strong link between the triennial HSP, annual grant applications, and annual reports, while avoiding unnecessary duplication.

GHSA specifically pointed to duplicative project information reporting that it argued is proposed in both 23 CFR 1300.12(b)(2), 23 CFR 1300.33(b) and 23 CFR 1300.35(b)(1)(i), and requested that NHTSA remove the requirement about project information from the annual report and instead require States only to provide an explanation of the projects that were not implemented in the year. NHTSA agrees that it is unnecessary to separately collect project information in both the annual grant application and the annual report, because States are required to maintain updated project information in the annual grant application throughout the course of the grant year. We have therefore removed the proposed requirement for States to provide a description in the annual report of the projects and activities funded and implemented for each countermeasure strategy and will rely on the project information in the annual grant application instead. In order to ensure that the project information is complete, NHTSA has added a statement that project information must be complete in the annual grant application at the time the State submits the annual report. 23 CFR 1300.12(d).

GHSA also pointed to the activity report requirements about the State's ongoing public engagement efforts proposed in the triennial HSP at 23 CFR 1300.12(b)(2) and also proposed in the annual report at 23 CFR 1300.35(b)(2), and requested that NHTSA eliminate this section of the annual report. GHSA stated that the BIL does not require States to link their projects to their engagement activities. NHTSA declines to eliminate the requirement to describe how public engagement efforts informed projects conducted during the grant year. However, we have made revisions to clarify that States need not describe how public participation and engagement efforts informed every individual project. Rather, States must describe the public participation and engagement efforts conducted during the grant year and explain how those efforts generally informed the projects

[30] NHTSA has an exemption that allows the agency to use its own financial reporting, instead of commonly used and OMB-approved Federal Financial Report. 2 CFR 1200.327.

implemented under the State's countermeasure strategies. § 1300.35(b)(2). As revised, the provisions in the triennial HSP and the annual report are now distinguishable, as the State is required to provide information on the public participation and engagement efforts that the State *plans* to undertake and how it *plans* to incorporate the comments and views received into State decision-making during the 3-year period in the triennial HSP, but then to provide a description of the public participation and engagement efforts *actually carried out* and how those efforts *actually informed* the State's program during the grant year in the annual report.

GHSA requested that NHTSA remove proposed activity report requirements related to activities covered by the certifications and assurances States provide with the annual grant application, arguing that certifications are designed to be attestations without supporting documentation. NHTSA disagrees with this view and declines to remove activity report requirements. As stated in the preamble to the NPRM, NHTSA implements several threshold grant requirements through certifications and assurances up front, but it is appropriate and important for grant oversight that NHTSA obtain year-end information to ensure that States have met those assurances. While certifications and assurances are front-end attestations at the time of application, States must be ready and able to provide documentation during and after performance that requirements have been met, in support of NHTSA's grant oversight responsibilities. Upon review of the assurances, however, the agency noted that one of the assurances reflects discontinued practice. Accordingly, the agency has removed the assurance that the State will submit information regarding mobilization participation into the HVE Database. As discussed below, that information is now reported by States in the annual report. *See* 23 CFR 1300.35(b)(4).

GHSA and MN DPS had several comments about the proposed evidence-based enforcement program requirements. The agency's proposal requires States to describe the evidence-based enforcement program activities in the annual report, including discussion of the community collaboration efforts and data collection and analysis required by the BIL. *See* 23 U.S.C. 402(b)(1)(E). GHSA, supported by MN DPS, recommended that the annual report focus on discussing community collaboration activities and efforts related to the BIL's requirement for evidence-based enforcement program activities instead of discussing the State's evidence-based enforcement program activities including community collaboration and data collection and analysis. NHTSA believes that a discussion of community collaboration and data collection and analysis activities, without the added context of the full data-based enforcement program, would not sufficiently capture the way in which the community collaboration and data collection and analysis both inform and grow out of the data-based enforcement program. GHSA argued that requiring discussion of the data-based enforcement program is duplicative of the project list in the annual grant application. NHTSA disagrees. The annual report requirement provides narrative context to the activities conducted and links those activities to the State's responsibility to support enforcement programs that foster community collaboration and data collection and analysis. Accordingly, NHTSA makes no changes to the regulatory text proposed in the NPRM.

GHSA and MN DPS requested that NHTSA provide more information about the substance of the proposed requirement that States support data-based enforcement programs that foster effective community collaboration. Because those comments were tied to the annual report requirement to discuss these efforts, we address them here. GHSA argued that the proposed requirement for evidence-based enforcement programs should be limited to State program efforts, or at the countermeasure strategy level, not to individual enforcement programs. GHSA noted that this would be comparable to the public engagement requirements in the triennial HSP. NHTSA disagrees. As noted in the NPRM, the proposed requirement that States support enforcement programs that foster community collaboration is separate, though related, to the proposed requirement that State traffic safety programs result from meaningful public participation and engagement. The proposed community collaboration requirement is specifically placed on enforcement programs, not merely on the State's highway safety program. While States are not required to ensure that every single enforcement agency that receives a subaward undertakes community collaboration efforts related to the grant, States must discuss their efforts to facilitate community collaboration by enforcement agencies and discuss community collaboration efforts that do take place. NHTSA makes no changes to the NPRM in response to these comments.

GHSA and MN DPS requested that NHTSA afford States flexibility in the manner in which they carry out the required community collaboration efforts. At the same time, MN DPS sought further guidance on what NHTSA expects to see in terms of community collaboration activities. While NHTSA supports flexibility and the regulatory language does not prescribe specific activities to meet the evidence-based enforcement program requirements, we note that States must meet the statutory requirement. The BIL requires that the State highway safety program must support data-driven traffic safety enforcement programs that foster effective community collaboration to increase public safety. *See* 23 U.S.C. 402(b)(1)(E)(i). As written, this requires the State to support *individual enforcement programs* that foster effective community collaboration. NHTSA expects States to, at a minimum, also discuss actions that enforcement programs in the State have taken to facilitate community collaboration during the grant year. This provision is essential to ensuring that highway safety programs carried out by law enforcement agencies are equitable and community-based. While there certainly are actions that States can undertake or sponsor to facilitate community collaboration in enforcement programs within the State, an annual report discussion focused only on State-level programs or countermeasure strategies would be insufficient to ensure that States are meeting the requirement to facilitate evidence-based enforcement programs that foster community collaboration throughout the State.

Finally, GHSA requested that NHTSA clarify what information States are expected to have on file related to community collaboration during NHTSA oversight activities. While the specific documentation may vary depending on specific circumstances, the documentation on file must demonstrate that the State is satisfying the statutory requirement and must support the narrative description provided in the State's annual reports.

VIII. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's

regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866 or Executive Order 13563. This action establishes revised uniform procedures implementing State highway safety grant programs, as a result of enactment of the Infrastructure Investment and Jobs Act (IIJA, also referred to as the Bipartisan Infrastructure Law or BIL). While this final rule would establish minimum criteria for highway safety grants, most of the criteria are based on statute. NHTSA has no discretion over the grant amounts, and its implementation authority is limited and non-controversial. Therefore, this rulemaking has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures and the policies of the Office of Management and Budget.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that an action would not have a significant economic impact on a substantial number of small entities.

This final rule establishes revised uniform procedures implementing State highway safety grant programs, as a result of enactment of the Infrastructure Investment and Jobs Act (IIJA, also referred to as the Bipartisan Infrastructure Law or BIL). Under these grant programs, States will receive funds if they meet the application and qualification requirements. These grant programs will affect only State governments, which are not considered to be small entities as that term is defined by the RFA. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities and find that the preparation of a Regulatory Flexibility Analysis is unnecessary.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' 64 FR 43255 (August 10, 1999). ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, an agency may not issue a regulation with Federalism implications that imposes substantial direct compliance costs and that is not required by statute unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local governments in the process of developing the proposed regulation. An agency also may not issue a regulation with Federalism implications that preempts a State law without consulting with State and local officials.

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. First, we note that the regulation implementing these grant programs is required by statute. Moreover, the agency has determined that this final rule would not have sufficient Federalism implications as defined in the order to warrant formal consultation with State and local officials or the preparation of a federalism summary impact statement. Nevertheless, NHTSA notes that it has consulted with States representatives through public meetings, continues to engage with State representatives regarding general implementation of the BIL, including these grant programs, and expects to continue these informal dialogues.

D. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 (61 FR 4729 (February 7, 1996)), ''Civil Justice Reform,'' the agency has considered whether this rule would have any retroactive effect. I conclude that it would not have any retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E. Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. There are 5 information collections associated with this final rule. NHTSA sought public comment on these information collections in the NPRM that was published on September 15, 2022 and submitted an information collection request (ICR) to OMB for approval.

As OMB deferred review while NHTSA reviewed the comments to the NPRM, NHTSA is resubmitting the ICR for this final rule. NHTSA's ICR describes the nature of the information collections and their expected burden. As described in the NPRM, the ICR consists of the following information collections: (1) the submission of a triennial Highway Safety Plan (triennial HSP); (2) the submission of an annual grant application; (3) the submission of an annual report; (4) responses provided by States who wish to apply for Section 405(b) occupant protection grant funds using the occupant protection grant assessment criterion; and (5) responses provided by States who wish to apply for Section 405(d) impaired driving grant funds using the impaired driving grant assessment criterion.

NHTSA did not receive any comments in response to the ICR, but received several comments to the rulemaking docket that pertain to the information collections. Those comments are discussed in full in the preamble to this final rule, above. As we explained in the preamble, NHTSA strove to minimize duplication of submissions and to reduce administrative burdens throughout the rulemaking, consistent with legal requirements. For the triennial HSP, NHTSA amended the regulatory text to require States to provide a narrative description of engagement opportunities conducted, rather than provide an exhaustive list (§ 1300.11(b)(2)(ii)) and added two additional resources that States can cite to without further need to justify use of a countermeasure strategy; (§ 1300.11(b)(4)(ii)(A)); and clarified the level of detail required in the triennial HSP performance report (§ 1300.11(b)(5)). For the annual grant application, NHTSA amended the provision relating to amendments to the annual grant application to provide that some amendments do not require approval by the Regional Administrator. § 1300.32. For the annual report,

NHTSA amended the regulatory text to clarify that the performance report must describe how activities, rather than individual projects, contributed to meeting performance targets (§ 1300.35(a)(1)(ii)), and removed the requirement for States to provide a description of projects funded during the grant year in the annual report (§ 1300.35(b)). NHTSA made no changes related to the occupant protection grant assessment or impaired driving grant assessment.

NHTSA is submitting supporting statements to OMB explaining how the final rule's collections of information respond to the comments received from the public. None of the changes made in this final rule affect the estimates in the NPRM of these requirements.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). This rulemaking would not meet the definition of a Federal mandate because the resulting annual State expenditures would not exceed the minimum threshold. The program is voluntary and States that choose to apply and qualify would receive grant funds.

G. National Environmental Policy Act

NHTSA has considered the impacts of this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that this rulemaking would not have a significant impact on the quality of the human environment.

H. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) is determined to be economically significant as defined under Executive Order 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not likely to have a significantly adverse effect on the supply of, distribution of, or use of energy. This rulemaking has not been designated as a significant energy action. Accordingly, this rulemaking is not subject to Executive Order 13211.

K. Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The agency has analyzed this rulemaking under Executive Order 13175, and has determined that today's action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

L. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The BIL requires NHTSA to award highway safety grants pursuant to rulemaking. (Section 24101(d), BIL; and 23 U.S.C. 406). The Regulatory Information Service Center publishes the Unified Agenda in or about April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

M. Privacy Act

Please note that 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 FR19477) or you may visit *http://dms.dot.gov*.

List of Subjects in 23 CFR Part 1300

Grant programs—transportation, Highway safety, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure, Alcohol abuse, Drug abuse, Motor vehicles—motorcycles.

■ For the reasons discussed in the preamble, under the authority of 23 U.S.C. 401 *et seq.,* the National Highway Traffic Safety Administration amends 23 CFR chapter III by revising part 1300 to read as follows:

PART 1300—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY GRANT PROGRAMS

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1300.2 [Reserved]
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Subpart D—Administration of the Highway Safety Grants

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Subpart E—Annual Reconciliation

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1300.41 Disposition of unexpended balances.
1300.42 Post-grant adjustments.
1300.43 Continuing requirements.

Subpart F—Non-Compliance

1300.50 General.
1300.51 Sanctions—reduction of apportionment.
1300.52 Sanctions—risk assessment and non-compliance.
Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants.
Appendix B to Part 1300—Application requirements for Section 405 and Section 1906 Grants.

Authority: 23 U.S.C. 402; 23 U.S.C. 405; Sec. 1906, Pub. L. 109–59, 119 Stat. 1468, as amended by Sec. 25024, Pub. L. 117–58, 135 Stat. 879; delegation of authority at 49 CFR 1.95.

Subpart A—General

§ 1300.1 Purpose.

This part establishes uniform procedures for State highway safety programs authorized under 23 U.S.C. Chapter 4 and Sec. 1906, Public Law 109–59, as amended by section 25024, Public Law 117–58.

§ 1300.2 [Reserved]

§ 1300.3 Definitions.

As used in this part—

Annual grant application means the document that the State submits each fiscal year as its application for highway safety grants (and amends as necessary), which provides any necessary updates to the State's most recent triennial HSP, identifies all projects the State will implement during the fiscal year to achieve its highway safety performance targets, describes how the State has adjusted its countermeasure strategy for programming funds based on the annual report, and includes the application for grants under Sections 405 and 1906.

Annual Report File (ARF) means FARS data that are published annually, but prior to final FARS data.

Automated traffic enforcement system (ATES) means any camera that captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.

Carry-forward funds means those funds that a State has not expended on projects in the fiscal year in which they were apportioned or allocated, that are within the period of availability, and that are being brought forward and made available for expenditure in a subsequent fiscal year.

Community means populations sharing a particular characteristic or geographic location.

Contract authority means the statutory language that authorizes an agency to incur an obligation without the need for a prior appropriation or further action from Congress and which, when exercised, creates a binding obligation on the United States for which Congress must make subsequent liquidating appropriations.

Countermeasure strategy for programming funds (or *countermeasure strategy*) means a proven effective or innovative countermeasure or group of countermeasures along with information on how the State plans to implement those countermeasures (*i.e.,* funding amounts, subrecipient types, location or community information) that the State proposes to be implemented with grant funds under 23 U.S.C. Chapter 4 or Section 1906 to address identified problems and meet performance targets.

Data-driven means informed by a systematic review and analysis of quality data sources when making decisions related to planning, target establishment, resource allocation and implementation.

Evidence-based means based on approaches that are proven effective with consistent results when making decisions related to countermeasure strategies and projects.

Fatality Analysis Reporting System (FARS) means the nationwide census providing yearly public data regarding fatal injuries suffered in motor vehicle traffic crashes, as published by NHTSA.

Final FARS means the FARS data that replace the annual report file and contain additional cases or updates that became available after the annual report file was released.

Fiscal year means the Federal fiscal year, consisting of the 12 months beginning each October 1 and ending the following September 30.

Governor means the Governor of any of the fifty States, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Mayor of the District of Columbia, or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), the Secretary of the Interior.

Governor's Representative for Highway Safety (GR) means the official appointed by the Governor to implement the State's highway safety program or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), an official of the Bureau of Indian Affairs or other Department of Interior official who is duly designated by the Secretary of the Interior to implement the Indian highway safety program.

Highway safety program means the planning, strategies and performance measures, and the general oversight and management of highway safety strategies and projects by the State either directly or through subrecipients to address highway safety problems in the State, as defined in the triennial Highway Safety Plan and the annual grant application, including any amendments.

Indian country means all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

NHTSA means the National Highway Traffic Safety Administration.

Performance measure means a metric that is used to establish targets and to assess progress toward meeting the established targets.

Performance target means a quantifiable level of performance or a goal, expressed as a value, to be achieved through implementation of countermeasure strategies within a specified time period.

Political subdivision of a State means a separate legal entity of a State that usually has specific governmental functions, and includes Indian tribal governments. Political subdivision includes, but is not limited to, local governments and any agencies or instrumentalities thereof, school districts, intrastate districts, associations comprised of representatives from political subdivisions acting in their official capacities (including State or regional conferences of mayors or associations of chiefs of police), local court systems, and any other regional or interstate government entity.

Problem identification means the data collection and analysis process for identifying areas of the State, types of crashes, types of populations (*e.g.,* high-risk populations), related data systems or other conditions that present specific highway safety challenges within a specific program area.

Program area means any of the national priority safety program areas identified in 23 U.S.C. 405 or a program area identified by a State in the triennial Highway Safety Plan as encompassing a major highway safety or related data problem in the State and for which documented effective countermeasure strategies have been identified or projected by analysis to be effective.

Project (or funded project) means a discrete effort involving identified subrecipients or contractors to be funded, in whole or in part, with grant funds under 23 U.S.C. Chapter 4 or Section 1906 and that addresses countermeasure strategies identified in the triennial Highway Safety Plan.

Project agreement means a written agreement at the State level or between the State and a subrecipient or contractor under which the State agrees to perform a project or to provide Federal funds in exchange for the subrecipient's or contractor's performance of a project that supports the highway safety program.

Project agreement number means a unique State-generated identifier assigned to each project agreement.

Public road means any road under the jurisdiction of and maintained by a

public authority and open to public travel.

Section 402 means section 402 of title 23 of the United States Code.

Section 405 means section 405 of title 23 of the United States Code.

Section 1906 means section 1906, Public Law 109–59, as amended by section 25024, Public Law 117–58.

Serious injuries means ''suspected serious injury (A)'' as defined in the Model Minimum Uniform Crash Criteria (MMUCC) Guideline, 5th Edition, as updated.

State means, except as provided in § 1300.25(b) for the program under 23 U.S.C. 405(f), any of the fifty States of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), the Secretary of the Interior.

State highway safety improvement program (HSIP) means the program defined in 23 U.S.C. 148(a)(12).

State strategic highway safety plan (SHSP) means the plan defined in 23 U.S.C. 148(a)(13).

Triennial Highway Safety Plan (triennial HSP) means the document that the State submits once every three fiscal years documenting its highway safety program, including the State's highway safety planning process and problem identification, public participation and engagement, performance plan, countermeasure strategy for programming funds, and performance report.

Underserved populations means populations sharing a particular characteristic or geographic location that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.

§ 1300.4 State highway safety agency—authority and functions.

(a) *In general.* In order for a State to receive grant funds under this part, the Governor shall exercise responsibility for the highway safety program by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized to carry out the State's highway safety program and for coordinating with the Governor and other State agencies. To effectively carry out these responsibilities and to avoid a potential conflict of interest, the Governor's Representative for Highway Safety must, at a minimum, have access to the Governor and either be the head of the State highway safety agency or be in the chain of command between the State highway safety agency and the Governor.

(b) *Authority.* Each State highway safety agency shall be equipped and authorized to—

(1) Develop and execute the triennial Highway Safety Plan, annual grant application, and highway safety program in the State;

(2) Manage Federal grant funds effectively and efficiently and in accordance with all Federal and State requirements;

(3) Foster meaningful public participation and engagement from affected communities;

(4) Obtain information about highway safety programs and projects administered by other State and local agencies;

(5) Maintain or have access to information contained in State highway safety data systems, including crash, citation or adjudication, emergency medical services/injury surveillance, roadway and vehicle recordkeeping systems, and driver license data;

(6) Periodically review and comment to the Governor on the effectiveness of programs to improve highway safety in the State from all funding sources that the State plans to use for such purposes;

(7) Provide financial and technical assistance to other State agencies and political subdivisions to develop and carry out highway safety strategies and projects; and

(8) Establish and maintain adequate staffing to effectively plan, manage, and provide oversight of projects implemented under the annual grant application and to properly administer the expenditure of Federal grant funds.

(c) *Functions.* Each State highway safety agency shall—

(1) Develop and prepare the triennial HSP and annual grant application based on evaluation of highway safety data, including crash fatalities and injuries, roadway, driver, demographics and other data sources to identify safety problems within the State;

(2) Establish projects to be funded within the State under 23 U.S.C. Chapter 4 based on identified safety problems and priorities and projects under Section 1906;

(3) Conduct risk assessments of subrecipients and monitor subrecipients based on risk, as provided in 2 CFR 200.332;

(4) Provide direction, information and assistance to subrecipients concerning highway safety grants, procedures for participation, development of projects and applicable Federal and State regulations and policies;

(5) Encourage and assist subrecipients to improve their highway safety planning and administration efforts;

(6) Review, approve, and evaluate the implementation and effectiveness of State and local highway safety programs and projects from all funding sources that the State plans to use under the triennial HSP and annual grant application, and approve and monitor the expenditure of grant funds awarded under 23 U.S.C. Chapter 4 and Section 1906;

(7) Assess program performance through analysis of highway safety data and data-driven performance measures;

(8) Ensure that the State highway safety program meets the requirements of 23 U.S.C. Chapter 4, Section 1906, and applicable Federal and State laws, including but not limited to the standards for financial management systems required under 2 CFR 200.302 and internal controls required under 2 CFR 200.303;

(9) Ensure that all legally required audits of the financial operations of the State highway safety agency and of the use of highway safety grant funds are conducted;

(10) Track and maintain current knowledge of changes in State statutes or regulations that could affect State qualification for highway safety grants or transfer programs;

(11) Coordinate the triennial HSP, annual grant application, and highway safety data collection and information systems activities with other federally and non-federally supported programs relating to or affecting highway safety, including the State SHSP as defined in 23 U.S.C. 148(a); and

(12) Administer Federal grant funds in accordance with Federal and State requirements, including 2 CFR parts 200 and 1201.

§ 1300.5 Due dates—interpretation.

If any deadline or due date in this part falls on a Saturday, Sunday or Federal holiday, the applicable deadline or due date shall be the next business day.

Subpart B—Triennial Highway Safety Plan and Annual Grant Application

§ 1300.10 General.

To apply for any highway safety grant under 23 U.S.C. Chapter 4 and Section 1906, a State shall submit electronically and according to the due dates in §§ 1300.11 and 1300.12—

(a) A triennial Highway Safety Plan meeting the requirements of this subpart; and

(b) An annual grant application.

§ 1300.11 Triennial Highway Safety Plan.

The State's triennial Highway Safety Plan documents a three-year period of the State's highway safety program that is data-driven in establishing performance targets and selecting the countermeasure strategies for programming funds to meet those performance targets.

(a) *Due date for submission.* A State shall submit its triennial Highway Safety Plan electronically to NHTSA no later than 11:59 p.m. EDT on July 1 preceding the first fiscal year covered by the plan. Failure to meet this deadline may result in delayed approval of the triennial Highway Safety Plan which could impact approval and funding under a State's annual grant application.

(b) *Contents.* In order to be approved, the triennial highway safety plan submitted by the State must cover three fiscal years, beginning with the first fiscal year following submission of the plan, and contain the following components:

(1) *Highway safety planning process and problem identification.* (i) Description of the processes, data sources and information used by the State in its highway safety planning (*i.e.,* problem identification, public participation and engagement, performance measures, and countermeasure strategies); and

(ii) Description and analysis of the State's overall highway safety problems as identified through an analysis of data, including but not limited to fatality, injury, enforcement, judicial, geospatial and sociodemographic data.

(2) *Public participation and engagement*—(i) *Triennial HSP engagement planning.* Description of the State's public participation and engagement planning efforts in the highway safety planning process and program, including—

(A) A statement of the State's starting goals for the public engagement efforts, including how the public engagement efforts will contribute to the development of the State's highway safety program, including countermeasure strategies for programming funds;

(B) Identification of the affected and potentially affected communities, including particular emphasis on underserved communities and communities overrepresented in the data, (*i.e.,* what communities did the State identify at the outset of the process) and a description of how those communities were identified;

(ii) *Triennial HSP engagement outcomes.* A narrative description of the outcomes of the State's engagement efforts in the highway safety planning process, including—

(A) The steps taken by the State to produce meaningful engagement with affected communities, including—

(*1*) Engagement opportunities conducted and a description of how those opportunities were designed to reach the communities identified in paragraph (b)(2)(i)(B) of this section;

(*2*) Accessibility measures implemented by the State in its outreach efforts and in conducting engagement opportunities;

(B) The results of the engagement opportunities conducted, including—

(*1*) A description of attendees and participants, and, to the extent feasible, whether those participants are members of the affected communities identified in paragraph (2)(i)(B);

(*2*) A summary of the issues covered; and

(C) How the affected communities' comments and views have been incorporated into the development of the triennial HSP.

(iii) *Ongoing engagement planning.* A description of the public participation and engagement efforts in the State highway safety program that the State plans to undertake during the three-year period covered by the triennial HSP, including—

(A) A statement of the State's goals for the public engagement efforts;

(B) Identification of the affected and potentially affected communities, including particular emphasis on underserved communities and communities overrepresented in the data (*i.e.,* what communities did the State identify at the outset of the process), and a description of how those communities were identified;

(C) The steps the State plans to take to reach and engage those communities, including accessibility measures implemented by the State in its outreach efforts and in conducting engagement opportunities; and

(D) How the affected communities' comments and views will be incorporated into the decision-making process.

(3) *Performance plan.* (i) List of data-driven, quantifiable and measurable highway safety performance targets, as laid out in paragraphs (b)(3)(ii) and (iii) of this section, that demonstrate constant or improved performance over the three-year period covered by the triennial HSP and based on highway safety program areas identified by the State during the planning process conducted under paragraph (b)(1) of this section.

(ii) All performance measures developed by NHTSA in collaboration with the Governors Highway Safety Association (''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025)), as revised in accordance with 23 U.S.C. 402(k)(5) and published in the **Federal Register**, which must be used as minimum measures in developing the performance targets identified in paragraph (b)(3)(i) of this section, provided that—

(A) At least one performance measure and performance target that is data-driven shall be provided for each program area identified by the State during the planning process conducted under paragraph (b)(1) of this section that enables the State to track progress toward meeting the quantifiable annual target;

(B) For each program area performance measure, the State shall provide—

(*1*) Documentation of the current safety levels, based on the most currently available data;

(*2*) Quantifiable performance targets that show constant or improved performance compared to the safety levels provided under paragraph (b)(3)(ii)(B)(*1*) of this section, and extend through the final year covered by the triennial HSP, with annual benchmarks to assist States in tracking progress; and

(*3*) Justification for each performance target that explains how the target is data-driven, including a discussion of the factors that influenced the performance target selection; and

(C) State HSP performance targets are identical to the State DOT targets for common performance measures (fatality, fatality rate, and serious injuries) reported in the HSIP annual report, as coordinated through the State SHSP.

(iii) Additional performance measures not included under paragraph (b)(3)(ii) of this section. For program areas identified by the State where performance measures have not been jointly developed (*e.g.,* risky drivers, vulnerable road users, etc.) and for which States are using highway safety program grant funds, the State shall develop its own performance measures and performance targets that are data-driven, and shall provide the same information as required under paragraph (b)(3)(ii) of this section.

(4) *Countermeasure strategy for programming funds.* For each program area identified by the State during the planning process conducted under paragraph (b)(1) of this section, a description of the countermeasure strategies that will guide the State's program implementation and annual

project selection in order to achieve specific performance targets described in paragraph (b)(3) of this section, including, at a minimum—

(i) The problem identified during the planning process described in paragraph (b)(1) of this section that the countermeasure strategy addresses and a description of the link between the problem identification and the countermeasure strategy;

(ii) A list of the countermeasures that the State will implement, including—

(A) For countermeasures rated 3 or more stars in *Countermeasures That Work,* recommended in a NHTSA-facilitated program assessment report, or included in the Uniform Guidelines for State Highway Safety Programs, provide the citation to the countermeasure in the most recent edition of *Countermeasures That Work;* or

(B) For all other countermeasures, provide justification supporting the countermeasure, including available data, data analysis, research, evaluation and/or substantive anecdotal evidence, that supports the effectiveness of the proposed countermeasure strategy;

(iii) Identification of the performance target(s) the countermeasure strategy will address, along with an explanation of the link between the effectiveness of the countermeasure strategy and the performance target;

(iv) A description of any Federal funds that the State plans to use to carry out the countermeasure strategy including, at a minimum, the funding source(s) (*e.g.,* Section 402, Section 405(b), etc.) and an estimated allocation of funds;

(v) A description of considerations the State will use to determine what projects to fund to implement the countermeasure strategy, including, as applicable, public engagement, traffic safety data, affected communities, impacted locations, solicitation of proposals; and

(vi) A description of the manner in which the countermeasure strategy was informed by the uniform guidelines issued in accordance with 23 U.S.C. 402(a)(2) and, if applicable, NHTSA-facilitated programmatic assessments.

(5) *Performance report.* A report on the State's progress towards meeting State performance targets from the most recently submitted triennial HSP, based on the most currently available data, including—

(i) An explanation of the extent to which the State's progress in achieving those targets aligns with the triennial HSP; and

(ii) A description of how the countermeasure strategies implemented during the triennial period contributed to meeting the State's highway safety performance targets.

(c) *Review and approval procedures*—(1) *General.* Subject to paragraphs (c)(2) and (4) of this section, the Regional Administrator shall review and approve or disapprove a triennial HSP within 60 days after date of receipt. NHTSA will not approve a triennial HSP that does not meet the requirements of this section.

(2) *Additional information.* NHTSA may request additional information from a State to ensure compliance with the requirements of this part. Upon receipt of the request, the State must submit the requested information within 7 business days. NHTSA may extend the deadline for approval or disapproval of the triennial HSP by no more than 90 additional days, as necessary to facilitate the request.

(3) *Approval or disapproval of triennial Highway Safety Plan.* Within 60 days after receipt of the triennial HSP under this subpart, the Regional Administrator shall issue—

(i) A letter of approval, with conditions, if any, to the Governor's Representative for Highway Safety; or

(ii) A letter of disapproval to the Governor's Representative for Highway Safety informing the State of the reasons for disapproval and requiring resubmission of the triennial HSP with any modifications necessary for approval.

(4) *Resubmission of disapproved triennial Highway Safety Plan.* The State shall resubmit the triennial HSP with necessary modifications within 30 days after the date of disapproval. The Regional Administrator shall issue a letter of approval or disapproval within 30 days after receipt of a revised triennial HSP resubmitted as provided in paragraph (c)(3)(ii) of this section.

§ 1300.12 Annual grant application.

The State's annual grant application provides project level information on the State's highway safety program and demonstrates alignment with the State's most recent triennial HSP. Each fiscal year, the State shall submit an annual grant application, including appendices A and B to this part, that meets the following requirements:

(a) *Due date for submission.* A State shall submit its annual grant application electronically to NHTSA no later than 11:59 p.m. EDT on August 1 preceding the fiscal year to which the application applies. Failure to meet this deadline may result in delayed approval and funding of a State's Section 402 grant or disqualification from receiving a Section 405 or Section 1906 racial profiling data collection grant to avoid a delay in awarding grants to all States.

(b) *Contents.* In order to be approved, the annual grant application submitted by the State must contain the following components:

(1) *Updates to triennial HSP.* Any updates, as necessary, to any analysis included in the triennial Highway Safety Plan of the State, at the level of detail required by § 1300.11, including at a minimum:

(i) *Adjustments to countermeasure strategy for programming funds.* (A) If the State adjusts the strategy for programming funds, a narrative description of the means by which the State's strategy for programming funds was adjusted and informed by the most recent annual report submitted under § 1300.35; or

(B) If the State does not adjust the strategy for programming funds, a written explanation of why the State made no adjustments.

(ii) *Changes to performance plan.* The State may add performance measures based on updated traffic safety problem identification or as part of an application for a grant under Section 405 and may amend common performance targets developed under § 1300.11(b)(3)(ii)(C), but may not amend any other existing performance targets.

(2) *Project and subrecipient information.* For each project to be funded by the State using grant funds during the fiscal year covered by the application, the State must provide—

(i) Project name and description, including, at a minimum, a description of activities conducted, location where the project is performed, and affected communities, where applicable;

(ii) Federal funding source(s) (*i.e.,* Section 402, Section 405(b), etc.);

(iii) Project agreement number (which, if necessary, may be provided in a later amendment to the annual grant application);

(iv) Subrecipient(s) (including name and type of organization; *e.g.,* county or city DOT, State or local law enforcement, non-profit, EMS agency, etc.);

(v) Amount of Federal funds;

(vi) Eligible use of funds;

(vii) Whether the costs are Planning and Administration costs pursuant to § 1300.13(a) and the amount;

(viii) Whether the project will be used to meet the requirements of § 1300.41(b); and

(ix) The countermeasure strategy or strategies for programming funds identified in the most recently submitted triennial HSP under § 1300.11(b)(4) or in an update to the

triennial HSP submitted under paragraph (b)(1) of this section that the project supports.

(3) *Section 405 grant and Section 1906 racial profiling data collection grant applications.* Application(s) for any of the national priority safety program grants and the racial profiling data collection grant, in accordance with the requirements of subpart C of this part and as provided in appendix B to this part, signed by the Governor's Representative for Highway Safety.

(4) *Certifications and Assurances.* The Certifications and Assurances for 23 U.S.C. Chapter 4 and Section 1906 grants contained in appendix A, signed by the Governor's Representative for Highway Safety, certifying to the annual grant application contents and providing assurances that the State will comply with applicable laws and financial and programmatic requirements.

(c) *Review and approval procedures*—(1) *General.* Upon receipt and initial review of the annual grant application, NHTSA may request additional information from a State to ensure compliance with the requirements of this part. Failure to respond promptly to a request for additional information concerning the Section 402 grant application may result in delayed approval and funding of a State's Section 402 grant. Failure to respond promptly to a request for additional information concerning a Section 405 or Section 1906 grant application may result in a State's disqualification from consideration for a Section 405 or Section 1906 grant to avoid a delay in awarding grants to all States. NHTSA will not approve a grant application that does not meet the requirements of this section.

(2) *Approval or disapproval of annual grant application.* Within 60 days after receipt of the annual grant application under this subpart, the NHTSA administrator shall notify States in writing of grant awards and specify any conditions or limitations imposed by law on the use of funds.

(d) *Amendments to project and subrecipient information.* Notwithstanding the requirement in paragraph (b)(2) of this section to provide project and subrecipient information at the time of application, States may amend the annual grant application throughout the fiscal year of the grant to add projects or to update project information for previously submitted projects, consistent with the process set forth in § 1300.32, provided that all required project and subrecipient information must be complete at the time the State submits the annual report required under § 1300.35.

§ 1300.13 Special funding conditions for Section 402 grants.

The State's highway safety program under Section 402 shall be subject to the following conditions, and approval under § 1300.12 shall be deemed to incorporate these conditions:

(a) *Planning and administration (P & A) costs.* (1)(i) *Planning and administration (P & A) costs* are those direct and indirect costs that are attributable to the management of the Highway Safety Agency. Such costs could include salaries, related personnel benefits, travel expenses, and rental costs specific to the Highway Safety Agency. The salary of an accountant on the State highway safety agency staff is an example of a direct cost attributable to P & A. Centralized support services such as personnel, procurement, and budgeting would be indirect costs.

(ii) *Program management costs* are those costs attributable to a program area (*e.g.,* salary and travel expenses of an impaired driving program manager/coordinator of a State highway safety agency). Compensation for activity hours of a DWI (Driving While Intoxicated) enforcement officer is an example of a direct cost attributable to a project.

(2) Federal participation in P & A activities shall not exceed 50 percent of the total cost of such activities, or the applicable sliding scale rate in accordance with 23 U.S.C. 120. The Federal contribution for P & A activities shall not exceed 18 percent of the total funds the State receives under Section 402. In accordance with 23 U.S.C. 120(i), the Federal share payable for projects in the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent. The Indian Country is exempt from the P & A requirements. NHTSA funds shall be used only to fund P & A activities attributable to NHTSA programs.

(3) P & A tasks and related costs shall be described in the P & A module of the State's annual grant application. The State's matching share shall be determined on the basis of the total P & A costs in the module.

(4) A State may allocate salary and related costs of State highway safety agency employees to one of the following, depending on the activities performed:

(i) If an employee works solely performing P & A activities, the total salary and related costs may be programmed to P & A;

(ii) If the employee works performing program management activities in one or more program areas, the total salary and related costs may be charged directly to the appropriate area(s); or

(iii) If an employee works on a combination of P & A and program management activities, the total salary and related costs may be charged to P & A and the appropriate program area(s) based on the actual time worked under each area. If the State highway safety agency elects to allocate costs based on actual time spent on an activity, the State highway safety agency must keep accurate time records showing the work activities for each employee.

(b) *Participation by political subdivisions (local expenditure requirement)*—(1) *Determining local expenditure.* In determining whether a State meets the requirement that 40 percent (or 95 percent for Indian tribes) of Section 402 funds be expended by political subdivisions (also referred to as the local expenditure requirement) in a fiscal year, NHTSA will apply the requirement sequentially to each fiscal year's apportionments, treating all apportionments made from a single fiscal year's authorizations as a single amount for this purpose. Therefore, at least 40 percent of each State's apportionments (or at least 95 percent of the apportionment to the Secretary of the Interior) from each year's authorizations must be used in the highway safety programs of its political subdivisions prior to the end of the fiscal year.

(2) *Direct expenditures by political subdivisions.* When Federal funds apportioned under 23 U.S.C. 402 are expended by a political subdivision under a subaward from the State, such expenditures clearly qualify as part of the required local expenditure. A political subdivision may expend funds through direct performance of projects (including planning and administration of eligible highway safety project-related activities) or by entering into contracts or subawards with other entities (including non-profit entities) to carry out projects on its behalf.

(3) *Expenditures by State on behalf of a political subdivision.* Federal funds apportioned under 23 U.S.C. 402 that are expended by a State on behalf of a specific political subdivision (either through direct performance of projects or by entering into contracts or subawards with other entities) may qualify as part of the required local expenditure, provided there is evidence of the political subdivision's involvement in identifying its traffic safety need(s) and input into implementation of the activity within its

jurisdiction. A State may not arbitrarily ascribe State agency expenditures as ''on behalf of a local government.'' Such expenditures qualify if—

(i) The specific political subdivision is involved in the planning process of the State's highway safety program (for example, as part of the public participation described in § 1300.11(b)(2), as part of the State's planning for the annual grant application, or as part of ongoing planning processes), and the State then enters into agreements based on identification of need by the political subdivision and implements the project or activity accordingly. The State must maintain documentation that shows the political subdivision's participation in the planning processes (*e.g.,* meeting minutes, data submissions, etc.), and also must obtain written acceptance by the political subdivision of the project or activity being provided on its behalf prior to implementation.

(ii) The political subdivision is not involved in the planning process of the State's highway safety program, but submits a request for the State to implement a project on its behalf. The request does not need to be a formal application but should, at minimum, contain a description of the political subdivision's problem identification and a description of where and/or how the project or activity should be deployed to have effect within political subdivision (may include: identification of media outlets to run advertising, locations for billboard/sign placement or enforcement activities, schools or other venues to provide educational programming, specific sporting events/venues, etc.).

(4) *Allocation of qualifying costs.* Expenditures qualify as local expenditures only when the expenditures meet the qualification criteria described in paragraphs (b)(2) and (3) of this section. In some cases, only a portion of the expenditures under a given project may meet those requirements. States must allocate funds in proportion to the amount of costs that can be documented to meet the requirements for a specific political subdivision.

(5) *Waivers.* While, in extraordinary circumstances, the requirement for participation by political subdivisions may be waived in whole or in part by the NHTSA Administrator, it is expected that each State program will generate and maintain political subdivision participation at the level specified in the Federal statute so that requests for waivers are minimized. Where a waiver is requested, however, the State shall submit a written request describing the extraordinary circumstances that necessitate a waiver, or providing a conclusive showing of the absence of legal authority over highway safety activities at the political subdivision levels of the State, and must recommend the appropriate percentage participation to be applied in lieu of the required 40 percent or 95 percent (for Indian Tribes) local expenditure.

(c) *Use of grant funds for marijuana-impaired driving.* A State that has legalized medicinal or recreational marijuana shall consider implementing programs to—

(1) Educate drivers regarding the risks associated with marijuana-impaired driving; and

(2) Reduce injuries and deaths resulting from marijuana-impaired driving.

(d) *Use of grant funds for unattended passengers program.* The State must use a portion of grant funds received under Section 402 to carry out a program to educate the public regarding the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is deactivated by the operator.

(e) *Use of grant funds for teen traffic safety program.* The State may use a portion of the funds received under Section 402 to implement statewide efforts to improve traffic safety for teen drivers.

(f) *Prohibition on use of grant funds to check for helmet usage.* No grant funds under this part may be used for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

(g) *Prohibition on use of grant funds for automated traffic enforcement systems.* The State may not expend funds apportioned to the State under Section 402 to carry out a program to purchase, operate, or maintain an automated traffic enforcement system except in a work zone or school zone. Any ATES system installed using grant funds under this section must comply with guidelines established by the Secretary, as updated.

§ 1300.14 [Reserved]

§ 1300.15 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year, or soon thereafter, the NHTSA Administrator shall, in writing, distribute funds available for obligation under 23 U.S.C. Chapter 4 and Section 1906 to the States and specify any conditions or limitations imposed by law on the use of the funds.

(b) In the event that authorizations exist but no applicable appropriation act has been enacted by October 1 of a fiscal year, the NHTSA Administrator may, in writing, distribute a part of the funds authorized under 23 U.S.C. Chapter 4 and Section 1906 contract authority to the States to ensure program continuity, and in that event shall specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of grant funds, the NHTSA Administrator shall, in writing, promptly adjust the obligation limitation and specify any conditions or limitations imposed by law on the use of the funds.

(c) Funds distributed under paragraph (a) or (b) of this section shall be available for expenditure by the States to satisfy the Federal share of expenses under the approved annual grant application, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing document. Such funds shall be available for expenditure by the States as provided in § 1300.41(b), after which the funds shall lapse.

(d) Notwithstanding the provisions of paragraph (c) of this section, payment of State expenses under 23 U.S.C. Chapter 4 or Section 1906 shall be contingent upon the State's submission of up-to-date information about approved projects in the annual grant application, in accordance with §§ 1300.12(b)(2) and 1300.32.

Subpart C—National Priority Safety Program and Racial Profiling Data Collection Grants

§ 1300.20 General.

(a) *Scope.* This subpart establishes criteria, in accordance with Section 405 for awarding grants to States that adopt and implement programs and statutes to address national priorities for reducing highway deaths and injuries and, in accordance with Section 1906, for awarding grants to States that maintain and allow public inspection of race and ethnicity information on motor vehicle stops.

(b) *Definitions.* As used in this subpart—

Blood alcohol concentration or *BAC* means grams of alcohol per deciliter or 100 milliliters blood, or grams of alcohol per 210 liters of breath.

Majority means greater than 50 percent.

Passenger motor vehicle means a passenger car, pickup truck, van, minivan or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.

Primary offense means an offense for which a law enforcement officer may

stop a vehicle and issue a citation in the absence of evidence of another offense.

(c) *Eligibility and application*—(1) *Eligibility.* Except as provided in § 1300.25(c), the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands are each eligible to apply for grants identified under this subpart.

(2) *Application.* For all grants under Section 405 and Section 1906 –

(i) The Governor's Representative for Highway Safety, on behalf of the State, shall sign and submit with the annual grant application, the information required under appendix B to this part.

(ii) If the State is relying on specific elements of the annual grant application or triennial HSP as part of its application materials for grants under this subpart, the State shall identify the specific location where that information is located in the relevant document.

(d) *Qualification based on State statutes.* Whenever a qualifying State statute is the basis for a grant awarded under this subpart, such statute shall have been enacted by the application due date and be in effect and enforced, without interruption, by the beginning of and throughout the fiscal year of the grant award.

(e) *Transfer of funds.* If it is determined after review of applications that funds for a grant program under Section 405 will not all be awarded and distributed, such funds shall be transferred to Section 402 and shall be distributed in proportion to the amount each State received under Section 402 for fiscal year 2022 to ensure, to the maximum extent practicable, that all funding is distributed.

(f) *Matching.* (1) Except as provided in paragraph (f)(2) of this section, the Federal share of the costs of activities or programs funded with grants awarded under this subpart may not exceed 80 percent.

(2) The Federal share of the costs of activities or programs funded with grants awarded to the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 100 percent.

§ 1300.21 Occupant Protection Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(b), for awarding grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

(b) *Definitions.* As used in this section—

Child restraint means any device (including a child safety seat, booster seat used in conjunction with 3-point belts, or harness, but excluding seat belts) that is designed for use in a motor vehicle to restrain, seat, or position a child who weighs 65 pounds (30 kilograms) or less and that meets the Federal motor vehicle safety standard prescribed by NHTSA for child restraints.

High seat belt use rate State means a State that has an observed seat belt use rate of 90.0 percent or higher (not rounded) based on validated data from the State survey of seat belt use conducted during the previous calendar year, in accordance with the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR part 1340 (*e.g.,* for a grant application submitted on August 1, 2023, the ''previous calendar year'' would be 2022).

Lower seat belt use rate State means a State that has an observed seat belt use rate below 90.0 percent (not rounded) based on validated data from the State survey of seat belt use conducted during the previous calendar year, in accordance with the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR part 1340 (*e.g.,* for a grant application submitted on August 1, 2023, the ''previous calendar year'' would be 2022).

Low-income and underserved populations means:

(i) Populations meeting a threshold income level identified by the State that that falls within or below the most recent U.S. Department of Health and Human Services Poverty Guidelines; or

(ii) Populations sharing a particular characteristic or geographic location that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.

Seat belt means, with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt, and with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

(c) *Eligibility determination.* A State is eligible to apply for a grant under this section as a high seat belt use rate State or as a lower seat belt use rate State, in accordance with paragraph (d) or (e) of this section, as applicable.

(d) *Qualification criteria for a high seat belt use rate State.* To qualify for an Occupant Protection Grant in a fiscal year, a high seat belt use rate State (as determined by NHTSA) shall submit as part of its annual grant application the following documentation, in accordance with part 1 of appendix B to this part:

(1) *Occupant protection plan.* State occupant protection program area plan, updated annually, that identifies—

(i) The safety problems to be addressed, performance measures and targets, and the countermeasure strategies the State will implement to address those problems, at the level of detail required under § 1300.11(b); and

(ii) The projects, provided under § 1300.12(b)(2), that the State will implement during the fiscal year to carry out the plan.

(2) *Participation in Click-it-or-Ticket national mobilization.* Description of the State's planned participation in the Click it or Ticket national mobilization, including a list of participating agencies during the fiscal year of the grant;

(3) *Child restraint inspection stations.* (i) Projects, at the level of detail required under § 1300.12(b)(2), demonstrating an active network of child passenger safety inspection stations and/or inspection events based on the State's problem identification. The description must include estimates for the following requirements in the upcoming fiscal year:

(A) The total number of planned inspection stations and/or events in the State; and

(B) Within the total in paragraph (d)(3)(i)(A) of this section, the number of planned inspection stations and/or inspection events serving each of the following population categories: urban, rural, and at-risk.

(ii) Certification, signed by the Governor's Representative for Highway Safety, that the inspection stations/events are staffed with at least one current nationally Certified Child Passenger Safety Technician.

(4) *Child passenger safety technicians.* Projects, at the level of detail required under § 1300.12(b)(2), for recruiting, training and maintaining a sufficient number of child passenger safety technicians based on the State's problem identification. The description must include, at a minimum, an estimate of the total number of classes and the estimated total number of technicians to be trained in the upcoming fiscal year to ensure coverage of child passenger safety inspection stations and inspection events by nationally Certified Child Passenger Safety Technicians.

(e) *Qualification criteria for a lower seat belt use rate State.* To qualify for an Occupant Protection Grant in a fiscal year, a lower seat belt use rate State (as determined by NHTSA) shall satisfy all the requirements of paragraph (d) of this section, and submit as part of its annual grant application documentation demonstrating that it meets at least three

of the following additional criteria, in accordance with part 1 of appendix B to this part:

(1) *Primary enforcement seat belt use statute.* The State shall provide legal citations to the State law demonstrating that the State has enacted and is enforcing occupant protection statutes that make violation of the requirement to be secured in a seat belt or child restraint a primary offense.

(2) *Occupant protection statute.* The State shall provide legal citations to the State law demonstrating that the State has enacted and is enforcing occupant protection statutes that:

(i) Require—

(A) Each occupant riding in a passenger motor vehicle who is under eight years of age, weighs less than 65 pounds and is less than four feet, nine inches in height to be secured in an age-appropriate child restraint;

(B) Each occupant riding in a passenger motor vehicle other than an occupant identified in paragraph (e)(2)(i)(A) of this section to be secured in a seat belt or age-appropriate child restraint;

(C) A minimum fine of $25 per unrestrained occupant for a violation of the occupant protection statutes described in this paragraph (e)(2)(i).

(ii) Notwithstanding paragraph (e)(2)(i) of this section, permit no exception from coverage except for—

(A) Drivers, but not passengers, of postal, utility, and commercial vehicles that make frequent stops in the course of their business;

(B) Persons who are unable to wear a seat belt or child restraint because of a medical condition, provided there is written documentation from a physician;

(C) Persons who are unable to wear a seat belt or child restraint because all other seating positions are occupied by persons properly restrained in seat belts or child restraints;

(D) Emergency vehicle operators and passengers in emergency vehicles during an emergency;

(E) Persons riding in seating positions or vehicles not required by Federal Motor Vehicle Safety Standards to be equipped with seat belts; or

(F) Passengers in public and livery conveyances.

(3) *Seat belt enforcement.* The State shall identify the projects, at the level of detail required under § 1300.12(b)(2), and provide a description demonstrating that the State conducts sustained enforcement (*i.e.,* a program of recurring efforts throughout the fiscal year of the grant to promote seat belt and child restraint enforcement) that, based on the State's problem identification, involves law enforcement agencies responsible for seat belt enforcement in geographic areas in which at least 70 percent of either the State's unrestrained passenger vehicle occupant fatalities occurred or combined unrestrained fatalities and serious injuries occurred.

(4) *High risk population countermeasure programs.* The State shall identify the projects, at the level of detail required under § 1300.12(b)(2), demonstrating that the State will implement data-driven programs to improve seat belt and child restraint use for at least two of the following at-risk populations:

(i) Drivers on rural roadways;

(ii) Unrestrained nighttime drivers;

(iii) Teenage drivers;

(iv) Other high-risk populations identified in the occupant protection program area plan required under paragraph (d)(1) of this section.

(5) *Comprehensive occupant protection program.* The State shall submit the following:

(i) Date of NHTSA-facilitated program assessment that was conducted within five years prior to the application due date that evaluates the occupant protection program for elements designed to increase seat belt use in the State;

(ii) Multi-year strategic plan based on input from statewide stakeholders (task force), updated on a triennial basis, under which the State developed—

(A) *Data-driven performance targets* to improve occupant protection in the State, at the level of detail required under § 1300.11(b)(3);

(B) *Countermeasure strategies* (such as enforcement, education, communication, policies/legislation, partnerships/outreach) designed to achieve the performance targets of the strategic plan, at the level of detail required under § 1300.11(b)(4), which must include an enforcement strategy that includes activities such as encouraging seat belt use policies for law enforcement agencies, vigorous enforcement of seat belt and child safety seat statutes, and accurate reporting of occupant protection system information on police crash report forms; and

(C) *A program management strategy* that provides leadership and identifies the State official responsible for implementing various aspects of the multi-year strategic plan.

(iii) The name and title of the State's designated occupant protection coordinator responsible for managing the occupant protection program in the State, including developing the occupant protection program area of the triennial HSP and overseeing the execution of the projects designated in the annual grant application; and

(iv) A list that contains the names, titles and organizations of the statewide occupant protection task force membership that includes agencies and organizations that can help develop, implement, enforce and evaluate occupant protection programs.

(6) *Occupant protection program assessment.* The State shall identify the date of the NHTSA-facilitated assessment of all elements of its occupant protection program, which must have been conducted within five years prior to the application due date.

(f) *Award amounts.* The amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount each State received under Section 402 for fiscal year 2009.

(g) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraph (g)(2) of this section, a State may use grant funds awarded under 23 U.S.C. 405(b) for the following programs or purposes only:

(i) To support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

(ii) To train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

(iii) To educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

(iv) To provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

(v) To implement programs—

(A) To recruit and train nationally certified child passenger safety technicians among police officers, fire and other first responders, emergency medical personnel, and other individuals or organizations serving low-income and underserved populations;

(B) To educate parents and caregivers in low-income and underserved populations regarding the importance of proper use and correct installation of child restraints on every trip in a motor vehicle;

(C) To purchase and distribute child restraints to low-income and underserved populations; or

(vi) To establish and maintain information systems containing data about occupant protection, including the collection and administration of

child passenger safety and occupant protection surveys.

(2) *Special rule.* Notwithstanding paragraph (g)(1) of this section—

(i) A State that qualifies for grant funds must use not less than 10 percent of grant funds awarded under this section to carry out activities described in paragraph (g)(1)(v) of this section.

(ii) A State that qualifies for grant funds as a high seat belt use rate State may elect to use no more than 90 percent of grant funds awarded under this section for any eligible project or activity under Section 402.

§ 1300.22 State Traffic Safety Information System Improvements Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(c), for grants to States to develop and implement effective programs that improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of State safety data needed to identify priorities for Federal, State, and local highway and traffic safety programs; evaluate the effectiveness of such efforts; link State data systems, including traffic records and systems that contain medical, roadway, and economic data; improve the compatibility and interoperability of State data systems with national data systems and the data systems of other States, including the National EMS Information System; and enhance the agency's ability to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(b) *Qualification criteria.* To qualify for a grant under this section in a fiscal year, a State shall submit as part of its annual grant application the following documentation, in accordance with part 2 of appendix B to this part:

(1) *Certification.* The State shall submit a certification that it has—

(i) A functioning *traffic records coordinating committee (TRCC)* that meets at least three times each year;

(ii) Designated a traffic records coordinating committee coordinator; and

(iii) Established a State traffic records strategic plan, updated annually, that has been approved by the TRCC and describes specific, quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases; and

(2) *Quantitative improvement.* The State shall demonstrate quantitative improvement in the data attribute of accuracy, completeness, timeliness, uniformity, accessibility or integration of a core database by providing—

(i) A written description of the performance measure(s) that clearly identifies which performance attribute for which core database the State is relying on to demonstrate progress, using the methodology set forth in the ''Model Performance Measures for State Traffic Records Systems'' (DOT HS 811 441), as updated; and

(ii) Supporting documentation covering a contiguous 12-month performance period starting no earlier than April 1 of the calendar year prior to the application due date, that demonstrates quantitative improvement when compared to the comparable 12-month baseline period.

(c) *Award amounts.* The amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount the State received under Section 402 for fiscal year 2009.

(d) *Use of grant funds.* A State may use grant funds awarded under 23 U.S.C. 405(c) only to make data program improvements to core highway safety databases relating to quantifiable, measurable progress in the accuracy, completeness, timeliness, uniformity, accessibility or integration of data in a core highway safety database, including through—

(1) Software or applications to identify, collect, and report data to State and local government agencies, and enter data into State core highway safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle data;

(2) Purchasing equipment to improve a process by which data are identified, collated, and reported to State and local government agencies, including technology for use by law enforcement for near-real time, electronic reporting of crash data;

(3) Improving the compatibility and interoperability of the core highway safety databases of the State with national data systems and data systems of other States, including the National EMS Information System;

(4) Enhancing the ability of a State and the Secretary to observe and analyze local, State, and national trends in crash occurrences, rates, outcomes, and circumstances;

(5) Supporting traffic records improvement training and expenditures for law enforcement, emergency medical, judicial, prosecutorial, and traffic records professionals;

(6) Hiring traffic records professionals for the purpose of improving traffic information systems (including a State Fatal Accident Reporting System (FARS) liaison);

(7) Adoption of the Model Minimum Uniform Crash Criteria, or providing to the public information regarding why any of those criteria will not be used, if applicable;

(8) Supporting reporting criteria relating to emerging topics, including—

(i) Impaired driving as a result of drug, alcohol, or polysubstance consumption; and

(ii) Advanced technologies present on motor vehicles; and

(9) Conducting research relating to State traffic safety information systems, including developing programs to improve core highway safety databases and processes by which data are identified, collected, reported to State and local government agencies, and entered into State core safety databases.

§ 1300.23 Impaired Driving Countermeasures Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(d), for awarding grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol, drugs, or a combination of alcohol and drugs; that enact alcohol-ignition interlock laws; or that implement 24–7 sobriety programs.

(b) *Definitions.* As used in this section—

24–7 sobriety program means a State law or program that authorizes a State or local court or an agency with jurisdiction, as a condition of bond, sentence, probation, parole, or work permit, to require an individual who was arrested for, pleads guilty to, or was convicted of driving under the influence of alcohol or drugs to—

(i) Abstain totally from alcohol or drugs for a period of time; and

(ii) Be subject to testing for alcohol or drugs at least twice per day at a testing location, by continuous transdermal alcohol monitoring via an electronic monitoring device, by drug patch, by urinalysis, by ignition interlock monitoring (provided the interlock is able to require tests twice a day without vehicle operation), by other types of electronic monitoring, or by an alternative method approved by NHTSA.

Assessment means a NHTSA-facilitated process that employs a team of subject matter experts to conduct a comprehensive review of a specific highway safety program in a State.

Average impaired driving fatality rate means the number of fatalities in motor vehicle crashes involving a driver with

a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported three calendar years of final data from the FARS.

Driving under the influence of alcohol, drugs, or a combination of alcohol and drugs means operating a vehicle while the alcohol and/or drug concentration in the blood or breath, as determined by chemical or other tests, equals or exceeds the level established by the State, or is equivalent to the standard offense, for driving under the influence of alcohol or drugs in the State.

Driving While Intoxicated (DWI) Court means a court that specializes in cases involving driving while intoxicated and abides by the Ten Guiding Principles of DWI Courts in effect on the date of the grant, as established by the National Center for DWI Courts.

High-range State means a State that has an average impaired driving fatality rate of 0.60 or higher.

High-visibility enforcement efforts means participation in national impaired driving law enforcement campaigns organized by NHTSA, participation in impaired driving law enforcement campaigns organized by the State, or the use of sobriety checkpoints and/or saturation patrols conducted in a highly visible manner and supported by publicity through paid or earned media.

Low-range State means a State that has an average impaired driving fatality rate of 0.30 or lower.

Mid-range State means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

Restriction on driving privileges means any type of State-imposed limitation, such as a license revocation or suspension, location restriction, alcohol-ignition interlock device, or alcohol use prohibition.

Saturation patrol means a law enforcement activity during which enhanced levels of law enforcement are conducted in a concentrated geographic area (or areas) for the purpose of detecting drivers operating motor vehicles while impaired by alcohol and/or other drugs.

Sobriety checkpoint means a law enforcement activity during which law enforcement officials stop motor vehicles on a non-discriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while impaired by alcohol and/or other drugs.

Standard offense for driving under the influence of alcohol or drugs means the offense described in a State's statute that makes it a criminal offense to operate a motor vehicle while under the influence of alcohol or drugs, but does not require a measurement of alcohol or drug content.

(c) *Eligibility determination.* A State is eligible to apply for a grant under this section as a low-range State, a mid-range State, or a high-range State, in accordance with paragraph (d), (e), or (f) of this section, as applicable. Independent of qualification on the basis of range, a State may also qualify for separate grants under this section as a State with an alcohol-ignition interlock law, as provided in paragraph (g) of this section, or as a State with a 24–7 sobriety program, as provided in paragraph (h) of this section.

(d) *Qualification criteria for a low-range State.* To qualify for an Impaired Driving Countermeasures Grant in a fiscal year, a low-range State (as determined by NHTSA) shall submit as part of its annual grant application the assurances in part 3 of appendix B to this part that the State will use the funds awarded under 23 U.S.C. 405(d)(1) only for the implementation and enforcement of programs authorized in paragraph (j) of this section.

(e) *Qualification criteria for a mid-range State*—(1) *General requirements.* To qualify for an Impaired Driving Countermeasures Grant in a fiscal year, a mid-range State (as determined by NHTSA) shall submit as part of its annual grant application the assurance required in paragraph (d) of this section and a copy of a statewide impaired driving plan that contains the following information, in accordance with part 3 of appendix B to this part:

(i) Section that describes the authority and basis for the operation of the statewide impaired driving task force, including the process used to develop and approve the plan and date of approval;

(ii) List that contains names, titles, and organizations of all task force members, provided that the task force includes stakeholders from the following groups:

(A) State Highway Safety Office;

(B) State and local law enforcement;

(C) Criminal justice system (*e.g.,* prosecution, adjudication, and probation);

(D) Public health;

(E) Drug-impaired driving countermeasures (*e.g.,* DRE coordinator); and

(F) Communications and community engagement.

(iii) Strategic plan based on the most recent version of Highway Safety Program Guideline No. 8—Impaired Driving, which, at a minimum, covers the following:

(A) Program management and strategic planning;

(B) Prevention, including community engagement and coalitions;

(C) Criminal justice systems;

(D) Communications programs;

(E) Alcohol and other drug misuse, including screening, treatment, assessment and rehabilitation; and

(F) Program evaluation and data.

(2) *Assurance qualification for fiscal year 2024 grants.* For the application due date of August 1, 2023 only, if a mid-range State is not able to meet the requirements of paragraph (e)(1) of this section, the State may submit the assurance required in paragraph (d) of this section and a separate assurance that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan that meets the requirements of paragraph (e)(1) of this section, and submit the statewide impaired driving plan by August 1 of the grant year. The agency will require the return of grant funds awarded under this section if the State fails to submit a plan that meets the requirements of paragraph (e)(1) of this section by the deadline and will redistribute any such grant funds in accordance with 23 CFR 1200.20(e) to other qualifying States under this section.

(3) *Previously submitted plan.* A mid-range State that has received a grant for a previously submitted statewide impaired driving plan under paragraph (e)(1) or (f)(1) of this section that was approved after the application due date of August 1, 2023 for a period of three years after the approval occurs may, in lieu of submitting the plan required under paragraph (e)(1) of this section, submit the assurance required in paragraph (d) of this section and a separate assurance that the State continues to use the previously submitted plan.

(f) *Qualification criteria for a high-range State*—(1) *General requirements.* To qualify for an Impaired Driving Countermeasures Grant in a fiscal year, a high-range State (as determined by NHTSA) shall submit as part of its annual grant application the assurance required in paragraph (d) of this section, the date of a NHTSA-facilitated assessment of the State's impaired driving program conducted within three years prior to the application due date, a copy of a statewide impaired driving plan that contains the information required in paragraphs (e)(1)(i) through (iii) of this section and that includes the following additional information, in

accordance with part 3 of appendix B to this part:

(i) Review that addresses in each plan area any related recommendations from the assessment of the State's impaired driving program;

(ii) Projects implementing impaired driving activities listed in paragraph (j)(4) of this section that must include high-visibility enforcement efforts, at the level of detail required under § 1300.12(b)(2); and

(iii) Description of how the spending supports the State's impaired driving program and achievement of its performance targets.

(2) *Assurance qualification for fiscal year 2024 grants.* For the application due date of August 1, 2023 only, if a high-range State is not able to the meet the requirements of paragraph (f)(1) of this section, the State may submit the assurance required in paragraph (d) of this section and separate information that the State has conducted a NHTSA-facilitated assessment within the last three years, or an assurance that the State will conduct a NHTSA-facilitated assessment during the grant year and convene a statewide impaired driving task force to develop a statewide impaired driving plan that meets the requirements of paragraph (f)(1) of this section, and submit the statewide impaired driving plan by August 1 of the grant year. The agency will require the return of grant funds awarded under this section if the State fails to submit a plan that meets the requirements of paragraph (f)(1) of this section by the deadline and will redistribute any such grant funds in accordance with § 1200.20(e) to other qualifying States under this section.

(3) *Previously submitted plans.* A high-range State that has received a grant for a previously submitted statewide impaired driving plan under paragraph (f)(1) of this section that was approved after the application due date of August 1, 2023 for a period of three years after the approval occurs may, in lieu of submitting the plan required under paragraph (f)(1) of this section, submit the assurance required in paragraph (d) of this section and provide updates to its statewide impaired driving plan that meet the requirements of paragraphs (e)(1)(i) through (iii) of this section and updates to its assessment review and spending plan that meet the requirements of paragraphs (f)(1)(i) through (iii) of this section.

(g) *Grants to States with alcohol-ignition interlock laws.* (1) To qualify for an Alcohol-Ignition Interlock Law Grant, a State shall submit legal citation(s) or program information (for paragraph (g)(1)(iii)(B) of this section only), in accordance with part 4 of appendix B to this part, that demonstrates that—

(i) All individuals who are convicted of driving under the influence of alcohol or of driving while intoxicated are permitted to drive only motor vehicles equipped with alcohol-ignition interlocks for a period of not less than 180 days; or

(ii) All individuals who are convicted of driving under the influence of alcohol or of driving while intoxicated and who are ordered to use an alcohol-ignition interlock are not permitted to receive any driving privilege or driver's license unless each such individual installs on each motor vehicle registered, owned, or leased by the individual an alcohol-ignition interlock for a period of not less than 180 days; or

(iii)(A) All individuals who are convicted of, or whose driving privileges have been revoked or denied for, refusing to submit to a chemical or other appropriate test for the purpose of determining the presence or concentration of any intoxicating substance and who are ordered to use an alcohol-ignition interlock are required to install on each motor vehicle to be operated by each such individual an alcohol-ignition interlock for a period of not less than 180 days; and

(B) All individuals who are convicted of driving under the influence of alcohol or of driving while intoxicated and who are ordered to use an alcohol-ignition interlock must—

(*1*) Install on each motor vehicle to be operated by each such individual an alcohol-ignition interlock for a period of not less than 180 days; and

(*2*) Complete a minimum consecutive period of not less than 40 percent of the required period of alcohol-ignition interlock installation immediately prior to the end of each such individual's installation requirement, without a confirmed violation of the State's alcohol-ignition interlock program use requirements.

(2) *Permitted exceptions.* A State statute providing for the following exceptions, and no others, shall not be deemed out of compliance with the requirements of paragraph (g)(1) of this section:

(i) The individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual;

(ii) The individual is certified in writing by a physician as being unable to provide a deep lung breath sample for analysis by an ignition interlock device; or

(iii) A State-certified ignition interlock provider is not available within 100 miles of the individual's residence.

(h) *Grants to States with a 24–7 sobriety program.* To qualify for a 24–7 Sobriety Program Grant, a State shall submit the following as part of its annual grant application, in accordance with part 5 of appendix B to this part:

(1) Legal citation(s) to State statute demonstrating that the State has enacted and is enforcing a statute that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges, unless an exception in paragraph (g)(2) of this section applies, for a period of not less than 30 days; and

(2) Legal citation(s) to State statute or submission of State program information that authorizes a statewide 24–7 sobriety program.

(i) *Award amounts.* (1) The amount available for grants under paragraphs (d) through (f) of this section shall be determined based on the total amount of eligible States for these grants and after deduction of the amounts necessary to fund grants under 23 U.S.C. 405(d)(6).

(2) The amount available for grants under 23 U.S.C. 405(d)(6)(A) shall not exceed 12 percent of the total amount made available to States under 23 U.S.C. 405(d) for the fiscal year.

(3) The amount available for grants under 23 U.S.C. 405(d)(6)(B) shall not exceed 3 percent of the total amount made available to States under 23 U.S.C. 405(d) for the fiscal year.

(j) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraphs (j)(2) through (6) of this section, a State may use grant funds awarded under 23 U.S.C. 405(d) only for the following programs:

(i) High-visibility enforcement efforts;

(ii) Hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol, drugs or the combination of alcohol and drugs;

(iii) Court support of impaired driving prevention efforts, including—

(A) Hiring criminal justice professionals, including law enforcement officers, prosecutors, traffic safety resource prosecutors, judges, judicial outreach liaisons, and probation officers;

(B) Training and education of those professionals to assist the professionals in preventing impaired driving and handling impaired driving cases,

including by providing compensation to a law enforcement officer to carry out safety grant activities to replace a law enforcement officer who is receiving drug recognition expert training or participating as an instructor in that drug recognition expert training; or

(C) Establishing driving while intoxicated courts;

(iv) Alcohol ignition interlock programs;

(v) Improving blood alcohol and drug concentration screening and testing, detection of potentially impairing drugs (including through the use of oral fluid as a specimen), and reporting relating to testing and detection;

(vi) Paid and earned media in support of high-visibility enforcement efforts, conducting initial and continuing standardized field sobriety training, advanced roadside impaired driving evaluation training, law enforcement phlebotomy training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement;

(vii) Training on the use of alcohol and drug screening and brief intervention;

(viii) Training for and implementation of impaired driving assessment programs or other tools designed to increase the probability of identifying the recidivism risk of a person convicted of driving under the influence of alcohol, drugs, or a combination of alcohol and drugs and to determine the most effective mental health or substance abuse treatment or sanction that will reduce such risk;

(ix) Developing impaired driving information systems;

(x) Costs associated with a 24–7 sobriety program; or

(xi) Testing and implementing programs, and purchasing technologies, to better identify, monitor, or treat impaired drivers, including—

(A) Oral fluid-screening technologies;

(B) Electronic warrant programs;

(C) Equipment to increase the scope, quantity, quality, and timeliness of forensic toxicology chemical testing;

(D) Case management software to support the management of impaired driving offenders; or

(E) Technology to monitor impaired-driving offenders, and equipment and related expenditures used in connection with impaired-driving enforcement.

(2) *Special rule—low-range States.* Notwithstanding paragraph (j)(1) of this section, a State that qualifies for grant funds as a low-range State may elect to use—

(i) Grant funds awarded under 23 U.S.C. 405(d) for programs designed to reduce impaired driving based on problem identification, in accordance with § 1300.11; and

(ii) Up to 50 percent of grant funds awarded under 23 U.S.C. 405(d) for any eligible project or activity under Section 402.

(3) *Special rule—mid-range States.* Notwithstanding paragraph (j)(1) of this section, a State that qualifies for grant funds as a mid-range State may elect to use grant funds awarded under 23 U.S.C. 405(d) for programs designed to reduce impaired driving based on problem identification in accordance with § 1300.11, provided the State receives advance approval from NHTSA.

(4) *Special rule—high-range States.* Notwithstanding paragraph (j)(1) of this section, a high-range State may use grant funds awarded under 23 U.S.C. 405(d) only for—

(i) High-visibility enforcement efforts; and

(ii) Any of the eligible uses described in paragraph (j)(1) of this section or programs designed to reduce impaired driving based on problem identification, in accordance with § 1300.11, if all proposed uses are described in a statewide impaired driving plan submitted to and approved by NHTSA in accordance with paragraph (f) of this section.

(5) *Special rule—reporting and impaired driving measures.* Notwithstanding paragraph (j)(1) of this section, a State may use grant funds awarded under 23 U.S.C. 405(d) for any expenditure relating to—

(i) Increasing the timely and accurate reporting to Federal, State, and local databases of crash information, including electronic crash reporting systems that allow accurate real- or near-real time uploading of crash information, or impaired driving criminal justice information; or

(ii) Researching or evaluating impaired driving countermeasures.

(6) *Special rule—States with alcohol-ignition interlock laws or 24–7 sobriety programs.* Notwithstanding paragraph (j)(1) of this section, a State may elect to use grant funds awarded under 23 U.S.C. 405(d)(6) for any eligible project or activity under Section 402.

§ 1300.24 Distracted Driving Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(e), for awarding grants to States that include distracted driving awareness as part of the driver's license examination and enact and enforce a statute prohibiting distracted driving.

(b) *Definitions.* As used in this section—

Driving means operating a motor vehicle on a public road, and does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

Personal wireless communications device means a device through which personal wireless services are transmitted, and a mobile telephone or other portable electronic communication device with which the user engages in a call or writes, sends, or reads a text message using at least one hand. Personal wireless communications device does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

Text means to read from, or manually enter data into, a personal wireless communications device, including for the purpose of SMS texting, emailing, instant messaging, or any other form of electronic data retrieval or electronic data communication, and manually to enter, send, or retrieve a text message to communicate with another individual or device.

Text message means a text-based message, an instant message, an electronic message, and email, but does not include an emergency alert, traffic alert, weather alert, or a message relating to the operation or navigation of a motor vehicle.

(c) *Qualification criteria for a Distracted Driving Awareness Grant.* To qualify for a Distracted Driving Awareness Grant in a fiscal year, a State shall submit as part of its annual grant application, in accordance with part 6 of appendix B to this part, sample distracted driving questions from the State's driver's license examination.

(d) *Qualification criteria for a Distracted Driving Law Grant.* To qualify for a Distracted Driving Law Grant in a fiscal year, a State shall submit as part of its annual grant application, in accordance with part 6 of appendix B to this part, legal citations to the State statute demonstrating compliance with one of the following requirements:

(1) *Prohibition on texting while driving.* The State statute shall—

(i) Prohibit a driver from texting through a personal wireless communications device while driving;

(ii) Establish a fine for a violation of the statute; and

(iii) Not provide for an exemption that specifically allows a driver to use a personal wireless communication device for texting while stopped in traffic.

(2) *Prohibition on handheld phone use while driving.* The State statute shall—

(i) Prohibit a driver from holding a personal wireless communications device while driving;

(ii) Establishes a fine for a violation of the statute; and

(iii) Not provide for an exemption that specifically allows a driver to use a personal wireless communications device for texting while stopped in traffic.

(3) *Prohibition on youth cell phone use while driving.* The State statute shall—

(i) Prohibit a driver who is younger than 18 years of age or in the learner's permit or intermediate license stage from using a personal wireless communications device while driving;

(ii) Establish a fine for a violation of the statute; and

(iii) Not provide for an exemption that specifically allows a driver to use a personal wireless communication device for texting while stopped in traffic.

(4) *Prohibition on viewing devices while driving.* The State statute shall prohibit a driver from viewing a personal wireless communications device (except for purposes of navigation).

(5) *Permitted exceptions.* A State statute under paragraph (d)(1) through (3) of this section providing for any of the following exceptions (excluding the exception in paragraph (d)(5)(v) of this section for a law under paragraph (d)(3)), and no others, shall not be deemed out of compliance with the requirements of this paragraph (d):

(i) A driver who uses a personal wireless communications device during an emergency to contact emergency services to prevent injury to persons or property;

(ii) Emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel;

(iii) An individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to 49 U.S.C. 31136;

(iv) A driver who uses a personal wireless communications device for navigation;

(v) Except for a law described in paragraph (d)(3) of this section (prohibition on youth cell phone use while driving), the use of a personal wireless communications device in a hands-free manner, with a hands-free accessory, or with the activation or deactivation of a feature or function of the personal wireless communications device with the motion of a single swipe or tap of the finger of the driver.

(e) *Award amounts*—(1) *In general.* (i) The amount available for Distracted Driving Awareness Grants under paragraph (c) of this section shall not be less than 50 percent of the amounts available under 23 U.S.C. 405(e) for the fiscal year; and the amount available for Distracted Driving Law Grants under paragraph (d) of this section shall not be more than 50 percent of the amounts available under 23 U.S.C. 405(e) for the fiscal year.

(ii) A State may be eligible for a Distracted Driving Awareness Grant under paragraph (c) of this section and for one additional Distracted Driving Law Grant under paragraph (d) of this section.

(2) *Grant amount.*—(i) *Distracted driving awareness.* The amount of a distracted driving awareness grant awarded to a State under paragraph (c) of this section shall be based on the proportion that the apportionment of the State under section 402 for fiscal year 2009 bears to the apportionment of all States under section 402 for that fiscal year.

(ii) *Distracted driving laws.* Subject to paragraph (e)(2)(iii) of this section, the amount of a Distracted Driving Law Grant awarded to a State under paragraph (d) of this section shall be based on the proportion that the apportionment of the State under section 402 for fiscal year 2009 bears to the apportionment of all States under section 402 for that fiscal year.

(iii) *Special rules for distracted driving laws.* (A) A State that qualifies for a Distracted Driving Law Grant under paragraph (d)(1), (2), or (3) of this section and enforces the law as a primary offense shall receive 100 percent of the amount under paragraph (e)(2)(ii) of this section.

(B) A State that qualifies for a Distracted Driving Law Grant under paragraph (d)(1), (2), or (3) of this section and enforces the law as a secondary offense shall receive 50 percent of the amount under paragraph (e)(2)(ii) of this section.

(C) A State that qualifies for a prohibition on viewing Devices While Driving Law Grant under paragraph (d)(4) of this section shall receive 25 percent of the amount under paragraph (e)(2)(ii) of this section.

(f) *Use of funds*—(1) *Eligible uses.* Except as provided in paragraphs (f)(2) and (3) of this section, a State may use grant funds awarded under 23 U.S.C. 405(e) only to educate the public through advertising that contains information about the dangers of texting or using a cell phone while driving, for traffic signs that notify drivers about the distracted driving law of the State, or for law enforcement costs related to the enforcement of the distracted driving law.

(2) *Special rule.* Notwithstanding paragraph (f)(1) of this section, a State may elect to use up to 50 percent of the grant funds awarded under 23 U.S.C. 405(e) for any eligible project or activity under Section 402.

(3) *Special rule—MMUCC conforming States.* Notwithstanding paragraphs (f)(1) and (2) of this section, a State may use up to 75 percent of amounts received under 23 U.S.C. 405(e) for any eligible project or activity under Section 402 if the State has conformed its distracted driving data element(s) to the most recent Model Minimum Uniform Crash Criteria (MMUCC). To demonstrate conformance with MMUCC, the State shall submit, within 30 days after notification of award, the State's most recent crash report with the distracted driving data element(s). NHTSA will notify a State submitting a crash report with the distracted driving data element(s) whether the State's distracted driving data element(s) conform(s) with the most recent MMUCC.

§ 1300.25 Motorcyclist Safety Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(f), for awarding grants to States that adopt and implement effective programs to reduce the number of single-vehicle and multiple-vehicle crashes involving motorcyclists.

(b) *Definitions.* As used in this section—

Data State means a State that does not have a statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs but can show through data and/or documentation from official records that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs without diversion.

Impaired means alcohol-impaired or drug-impaired as defined by State law, provided that the State's legal alcohol-impairment level does not exceed .08 BAC.

Law State means a State that has a statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs and no statute or regulation diverting any of those fees.

Motorcycle means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

State means any of the 50 States, the District of Columbia, and Puerto Rico.

(c) *Eligibility.* The 50 States, the District of Columbia, and Puerto Rico are eligible to apply for a Motorcyclist Safety Grant.

(d) *Qualification criteria.* To qualify for a Motorcyclist Safety Grant in a fiscal year, a State shall submit as part of its annual grant application documentation demonstrating compliance with at least two of the criteria in paragraphs (e) through (k) of this section.

(e) *Motorcycle rider training course.* A State shall have an effective motorcycle rider training course that is offered throughout the State and that provides a formal program of instruction in crash avoidance and other safety-oriented operational skills to motorcyclists. To demonstrate compliance with this criterion, the State shall submit, in accordance with part 7 of appendix B to this part—

(1) A certification identifying the head of the designated State authority over motorcyclist safety issues and stating that the head of the designated State authority over motorcyclist safety issues has approved and the State has adopted one of the following introductory rider curricula:

(i) Motorcycle Safety Foundation Basic Rider Course;

(ii) TEAM OREGON Basic Rider Training;

(iii) Idaho STAR Basic I;

(iv) California Motorcyclist Safety Program Motorcyclist Training Course;

(v) A curriculum that has been approved by the designated State authority and NHTSA as meeting NHTSA's Model National Standards for Entry-Level Motorcycle Rider Training; and

(2) A list of the counties or political subdivisions in the State where motorcycle rider training courses will be conducted during the fiscal year of the grant and the number of registered motorcycles in each such county or political subdivision according to official State motor vehicle records, provided that the State must offer at least one motorcycle rider training course in counties or political subdivisions that collectively account for a majority of the State's registered motorcycles.

(f) *Motorcyclist awareness program.* A State shall have an effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists. To demonstrate compliance with this criterion, the State shall submit, in accordance with part 7 of appendix B to this part—

(1) A certification identifying the head of the designated State authority over motorcyclist safety issues and stating that the State's motorcyclist awareness program was developed by or in coordination with the designated State authority over motorcyclist safety issues; and

(2) One or more performance measures and corresponding performance targets developed for motorcycle awareness at the level of detail required under § 1300.11(b)(3) that identifies, using State crash data, the counties or political subdivisions within the State with the highest number of motorcycle crashes involving a motorcycle and another motor vehicle. Such data shall be from the most recent calendar year for which final State crash data are available, but must be data no older than three calendar years prior to the application due date (*e.g.,* for a grant application submitted on August 1, 2023, a State shall provide calendar year 2022 data, if available, and may not provide data older than calendar year 2020); and

(3) Projects, at the level of detail required under § 1300.12(b)(2), demonstrating that the State will implement data-driven programs in a majority of counties or political subdivisions where the incidence of crashes involving a motorcycle and another motor vehicle is highest. The State shall submit a list of counties or political subdivisions in the State ranked in order of the highest to lowest number of crashes involving a motorcycle and another motor vehicle per county or political subdivision. Such data shall be from the most recent calendar year for which final State crash data are available, but data must be no older than three calendar years prior to the application due date (*e.g.,* for a grant application submitted on August 1, 2023, a State shall provide calendar year 2022 data, if available, and may not provide data older than calendar year 2020). The State shall select projects implementing those countermeasure strategies to address the State's motorcycle safety problem areas in order to meet the performance targets identified in paragraph (f)(2) of this section.

(g) *Helmet law.* A State shall have a law requiring the use of a helmet for each motorcycle rider under the age of 18. To demonstrate compliance with this criterion, the State shall submit, in accordance with part 7 of appendix B to this part, the legal citation(s) to the statute(s) requiring the use of a helmet for each motorcycle rider under the age of 18, with no exceptions.

(h) *Reduction of fatalities and crashes involving motorcycles.* A State shall demonstrate a reduction for the preceding calendar year in the number of motorcyclist fatalities and in the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 registered motorcycle registrations), as computed by NHTSA. To demonstrate compliance a State shall, in accordance with part 7 of appendix B to this part—

(1) Submit State data and a description of the State's methods for collecting and analyzing the data, showing the total number of motor vehicle crashes involving motorcycles in the State for the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date and the same type of data for the calendar year immediately prior to that calendar year (*e.g.,* for a grant application submitted on August 1, 2023, the State shall submit calendar year 2022 data and 2021 data, if both data are available, and may not provide data older than calendar year 2020 and 2019, to determine the rate);

(2) Experience a reduction of at least one in the number of motorcyclist fatalities for the most recent calendar year for which final FARS data are available as compared to the final FARS data for the calendar year immediately prior to that year; and

(3) Based on State crash data expressed as a function of 10,000 motorcycle registrations (using FHWA motorcycle registration data), experience at least a whole number reduction in the rate of crashes involving motorcycles for the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date, as compared to the calendar year immediately prior to that year.

(i) *Impaired motorcyclist driving program.* A State shall implement a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

The State shall submit, in accordance with part 7 of appendix B to this part—

(1) One or more performance measures and corresponding performance targets developed to reduce impaired motorcycle operation at the level of detail required under § 1300.11(b)(3). Each performance measure and performance target shall identify the impaired motorcycle operation problem area to be addressed. Problem identification must include an analysis of motorcycle crashes involving an impaired operator by county or political subdivision in the State; and

(2) Projects, at the level of detail required under § 1300.12(b)(2), demonstrating that the State will implement data-driven programs designed to reach motorcyclists in those jurisdictions where the incidence of motorcycle crashes involving an impaired operator is highest (*i.e.,* the majority of counties or political subdivisions in the State with the highest numbers of motorcycle crashes involving an impaired operator) based upon State data. Such data shall be from the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date (*e.g.,* for a grant application submitted on August 1, 2023, a State shall provide calendar year 2022 data, if available, and may not provide data older than calendar year 2020). Projects and the countermeasure strategies they support shall prioritize the State's impaired motorcycle problem areas to meet the performance targets identified in paragraph (h)(1) of this section.

(j) *Reduction of fatalities and crashes involving impaired motorcyclists.* A State shall demonstrate a reduction for the preceding calendar year in the number of fatalities and in the rate of reported crashes involving alcohol-impaired and drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations), as computed by NHTSA. The State shall, in accordance with part 7 of appendix B to this part—

(1) Submit State data and a description of the State's methods for collecting and analyzing the data, showing the total number of reported crashes involving alcohol- and drug-impaired motorcycle operators in the State for the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date and the same type of data for the calendar year immediately prior to that year (*e.g.,* for a grant application submitted on August 1, 2023, the State shall submit calendar year 2022 data and 2021 data, if both data are available, and may not provide data older than calendar year 2020 and 2019, to determine the rate);

(2) Experience a reduction of at least one in the number of fatalities involving alcohol-impaired and drug-impaired motorcycle operators for the most recent calendar year for which final FARS data are available as compared to the final FARS data for the calendar year immediately prior to that year; and

(3) Based on State crash data expressed as a function of 10,000 motorcycle registrations (using FHWA motorcycle registration data), experience at least a whole number reduction in the rate of reported crashes involving alcohol- and drug-impaired motorcycle operators for the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date, as compared to the calendar year immediately prior to that year.

(k) *Use of fees collected from motorcyclists for motorcycle programs.* A State shall have a process under which all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are used for motorcycle training and safety programs. A State may qualify under this criterion as either a Law State or a Data State.

(1) To demonstrate compliance as a Law State, the State shall submit, in accordance with part 7 of appendix B to this part, the legal citation(s) to the statute(s) or regulation(s) requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs and the legal citation(s) to the State's current fiscal year appropriation (or preceding fiscal year appropriation, if the State has not enacted a law at the time of the State's application) appropriating all such fees to motorcycle training and safety programs.

(2) To demonstrate compliance as a Data State, the State shall submit, in accordance with part 7 of appendix B to this part, data or documentation from official records from the previous State fiscal year showing that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs. Such data or documentation shall show that revenues collected for the purposes of funding motorcycle training and safety programs were placed into a distinct account and expended only for motorcycle training and safety programs.

(l) *Award amounts.* The amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount each State received under Section 402 for fiscal year 2009, except that a grant awarded under 23 U.S.C. 405(f) may not exceed 25 percent of the amount apportioned to the State for fiscal year 2009 under Section 402.

(m) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraph (m)(2) of this section, a State may use grant funds awarded under 23 U.S.C. 405(f) only for motorcyclist safety training and motorcyclist awareness programs, including—

(i) Improvements to motorcyclist safety training curricula;

(ii) Improvements in program delivery of motorcycle training to both urban and rural areas, including—

(A) Procurement or repair of practice motorcycles;

(B) Instructional materials;

(C) Mobile training units; and

(D) Leasing or purchasing facilities for closed-course motorcycle skill training;

(iii) Measures designed to increase the recruitment or retention of motorcyclist safety training instructors; or

(iv) Public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, including ''Share-the-Road'' safety messages developed using Share-the-Road model language available on NHTSA's website at *http://www.trafficsafetymarketing.gov*.

(2) *Special rule—low fatality States.* Notwithstanding paragraph (m)(1) of this section, a State may elect to use up to 50 percent of grant funds awarded under 23 U.S.C. 405(f) for any eligible project or activity under Section 402 if the State is in the lowest 25 percent of all States for motorcycle deaths per 10,000 motorcycle registrations (using FHWA motorcycle registration data) based on the most recent calendar year for which final FARS data are available, as determined by NHTSA.

(3) *Suballocation of funds.* A State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out grant activities under this section.

§ 1300.26 Nonmotorized Safety Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(g), for awarding grants to States for the purpose of decreasing nonmotorized road user fatalities involving a motor vehicle in transit on a trafficway.

(b) *Eligibility determination.* (1) A State is eligible for a grant under this

section if the State's annual combined nonmotorized road user fatalities exceed 15 percent of the State's total annual crash fatalities based on the most recent calendar year for which final FARS data are available, as determined by NHTSA.

(2) For purposes of this section, a nonmotorized road user means a pedestrian; an individual using a nonmotorized mode of transportation, including a bicycle, a scooter, or a personal conveyance; and an individual using a low-speed or low-horsepower motorized vehicle, including an electric bicycle, electric scooter, personal mobility assistance device, personal transporter, or all-terrain vehicle.

(c) *Qualification criteria.* To qualify for a Nonmotorized Safety Grant in a fiscal year, a State meeting the eligibility requirements of paragraph (b) of this section shall submit as part of its annual grant application a list of project(s) and subrecipient(s) for the fiscal year of the grant, at the level of detail required under § 1300.12(b)(2) for authorized uses identified in paragraph (e) of this section.

(d) *Award amounts.* The amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount each State received under Section 402 for fiscal year 2009.

(e) *Use of grant funds.* A State may use grant funds awarded under 23 U.S.C. 405(g) only for the safety of nonmotorized road users, including—

(1) Training of law enforcement officials relating to nonmotorized road user safety, State laws applicable to nonmotorized road user safety, and infrastructure designed to improve nonmotorized road user safety;

(2) Carrying out a program to support enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to nonmotorized road user safety;

(3) Public education and awareness programs designed to inform motorists and nonmotorized road users regarding—

(i) Nonmotorized road user safety, including information relating to nonmotorized mobility and the importance of speed management to the safety of nonmotorized road users;

(ii) The value of the use of nonmotorized road user safety equipment, including lighting, conspicuity equipment, mirrors, helmets, and other protective equipment, and compliance with any State or local laws requiring the use of that equipment;

(iii) State traffic laws applicable to nonmotorized road user safety, including the responsibilities of motorists with respect to nonmotorized road users;

(iv) Infrastructure designed to improve nonmotorized road user safety; and

(4) The collection of data, and the establishment and maintenance of data systems, relating to nonmotorized road user traffic fatalities.

§ 1300.27 Preventing Roadside Deaths Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(h), for awarding grants to States that adopt and implement effective programs to prevent death and injury from crashes involving motor vehicles striking other vehicles and individuals stopped at the roadside.

(b) *Definitions.* As used in this section—

Digital alert technology means a system that provides electronic notification to drivers.

Optical visibility measure means an action to ensure that items are seen using visible light.

Public information campaign means activities to build awareness with the motoring public of a traffic safety issue through media, messaging, and an organized set of communication tactics that may include but are not limited to advertising in print, internet, social media, radio and television.

(c) *Qualification criteria.* To qualify for a grant under this section in a fiscal year, a State shall submit a plan that describes the method by which the State will use grant funds in accordance with paragraph (e) of this section. At a minimum, the plan shall state the eligible use(s) selected, consistent with paragraph (e) of this section, and include—

(1) Identification of the specific safety problems to be addressed, performance measures and targets, the countermeasure strategies at the level of detail required by § 1300.11(b)(1), (3), and (4); and

(2) Identification of the projects at the level of detail required by § 1300.12(b)(2) that support those strategies the State will implement during the fiscal year to carry out the plan.

(d) *Award amounts.* The amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount each State received under Section 402 for fiscal year 2022.

(e) *Use of grant funds.* A State may only use grant funds awarded under 23 U.S.C. 405(h) as follows:

(1) To purchase and deploy digital alert technology that—

(i) Is capable of receiving alerts regarding nearby first responders; and

(ii) In the case of a motor vehicle that is used for emergency response activities, is capable of sending alerts to civilian drivers to protect first responders on the scene and en route;

(2) To educate the public regarding the safety of vehicles and individuals stopped at the roadside in the State through public information campaigns for the purpose of reducing roadside deaths and injuries;

(3) For law enforcement costs related to enforcing State laws to protect the safety of vehicles and individuals stopped at the roadside;

(4) For programs to identify, collect, and report to State and local government agencies data related to crashes involving vehicles and individuals stopped at the roadside; and

(5) To pilot and incentivize measures, including optical visibility measures, to increase the visibility of stopped and disabled vehicles.

§ 1300.28 Driver and Officer Safety Education Grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(i), for awarding grants to States that enact and enforce a law or adopt and implement programs that include certain information on law enforcement practices during traffic stops in driver education and training courses or peace officer training programs.

(b) *Definitions.* As used in this section—

Driver education and driving safety course means any programs for novice teen drivers or driver improvement programs sanctioned by the State DMV, which include in-class or virtual instruction and may also include some behind the wheel training.

Peace officer means any individual who is an elected, appointed, or employed agent of a government entity, who has the authority to carry firearms and to make warrantless arrests, and whose duties involve the enforcement of criminal laws of the United States.

(c) *Qualification criteria.* To qualify for a grant under this section in a fiscal year, a State shall submit, as part of its annual grant application, documentation demonstrating compliance with either paragraph (d) or (e) of this section, in accordance with part 8 of appendix B to this part. A State may qualify for a grant under paragraph (e) of this section for a period of not more than 5 years.

(d) *Driver and officer safety law or program.* The State must meet at least one of the following requirements:

(1) *Driver education and driving safety courses*—(i) *General.* A State must provide either a legal citation to a

law, as provided in paragraph (d)(1)(ii) of this section, or supporting documentation, as provided in paragraph (d)(1)(iii) of this section, that demonstrates that driver education and driver safety courses provided to individuals by educational and motor vehicle agencies of the State include instruction and testing relating to law enforcement practices during traffic stops, including, at a minimum, information relating to—

(A) The role of law enforcement and the duties and responsibilities of peace officers;

(B) The legal rights of individuals concerning interactions with peace officers;

(C) Best practices for civilians and peace officers during those interactions;

(D) The consequences for failure of an individual or officer to comply with the law or program; and

(E) How and where to file a complaint against, or a compliment relating to, a peace officer.

(ii) *If applying with a law.* A State shall provide a legal citation to a law that demonstrate compliance with the requirements described in paragraph (d)(1)(i) of this section.

(iii) *If applying with supporting documentation.* A State shall have a driver education and driving safety course that is required throughout the State for licensing or pursuant to a violation. To demonstrate compliance, the State shall submit:

(A) A certification signed by the GR attesting that the State has developed and is implementing a driver education and driving safety course throughout the State that meets the requirements described in paragraph (d)(1)(i) of this section; and

(B) Curriculum or course materials, along with citations to where the requirements described in paragraph (d)(1)(i) of this section are located within the curriculum.

(2) *Peace officer training programs*—(i) *General.* A State must provide either a legal citation to a law, as provided in paragraph (d)(2)(ii) of this section, or supporting documentation, as provided in paragraph (d)(2)(iii) of this section, that demonstrates that the State has developed and is implementing a training program for peace officers and reserve law enforcement officers (other than officers who have received training in a civilian course described in paragraph (d)(1)) of this section with respect to proper interaction with civilians during traffic stops. Proper interaction means utilizing appropriate industry standards as established through a State Police Officer Standards and Training Board (POST) or similar association.

(ii) *Applying with a law.* A State shall provide a legal citation to a law that establishes a peace training program that meets the requirements described in paragraph (d)(2)(i) of this section.

(iii) *Applying with supporting documentation.* A State shall have a peace officer training program that is required for employment as a peace officer throughout the State and meets the requirements described in paragraph (d)(2)(i) of this section. To demonstrate compliance, the State shall submit:

(A) A certification signed by the GR attesting that the State has developed and is implementing a peace officer training program throughout the State that meets the requirements described in paragraph (d)(2)(i) of this section; and

(B) Curriculum or course materials, along with citations to where the requirements described in paragraph (d)(2)(i) of this section.

(e) *Qualifying State.* A State that has not fully enacted or adopted a law or program described in paragraph (d) of this section qualifies for a grant under this section if it submits:

(1) Evidence that the State has taken meaningful steps towards the full implementation of such a law or program. To demonstrate compliance with this criterion, the State shall submit one or more of the following—

(i) A proposed bill that has been introduced in the State, but has not yet been enacted into law, that meets the requirements in paragraph (d)(1) or (2) of this section; or

(ii) Planning or strategy document(s) that identify meaningful steps the State has taken as well as actions the State plans to take to develop and implement a law or program that meets the requirements in paragraph (d)(1) or (2) of this section; and

(2) A timetable for implementation of such a law or program within 5 years of first applying as a qualifying State under this paragraph (e).

(f) *Matching.* The Federal share of the cost of carrying out an activity funded through a grant under this subsection may not exceed 80 percent.

(g) *Award amounts*—(1) *In general.* Subject to paragraph (g)(2) of this section, the amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount each State received under Section 402 for fiscal year 2022.

(2) *Limitation.* Notwithstanding paragraph (g)(1) of this section, a State that qualifies for a grant under paragraph (e) of this section shall receive 50 percent of the amount determined from the calculation under paragraph (g)(1) of this section.

(3) *Redistribution of funds.* Any funds that are not distributed due to the operation of paragraph (g)(2) of this section shall be redistributed to the States that qualify for a grant under paragraph (d) of this section in proportion to the amount each such State received under Section 402 for fiscal year 2022.

(h) *Use of grant funds.* A State may use grant funds awarded under 23 U.S.C. 405(i) only for:

(1) The production of educational materials and training of staff for driver education and driving safety courses and peace officer training described in paragraph (d) of this section; and

(2) The implementation of a law or program described in paragraph (d) of this section.

§ 1300.29 Racial Profiling Data Collection Grants.

(a) *Purpose.* This section establishes criteria, in accordance with Section 1906, for incentive grants to encourage States to maintain and allow public inspection of statistical information on the race and ethnicity of the driver for all motor vehicle stops made on all public roads except those classified as local or minor rural roads.

(b) *Qualification criteria.* To qualify for a Racial Profiling Data Collection Grant in a fiscal year, a State shall submit as part of its annual grant application, in accordance with part 11 of appendix B to this part—

(1) Official documents (*i.e.,* a law, regulation, binding policy directive, letter from the Governor, or court order) that demonstrate that the State maintains and allows public inspection of statistical information on the race and ethnicity of the driver for each motor vehicle stop made by a law enforcement officer on all public roads except those classified as local or minor rural roads; or

(2) Assurances that the State will undertake activities during the fiscal year of the grant to comply with the requirements of paragraph (b)(1) of this section, and projects, at the level of detail required under § 1300.12(b)(2), supporting the assurances.

(c) *Award amounts.* (1) Subject to paragraph (c)(2) of this section, the amount of a grant awarded to a State in a fiscal year under this section shall be in proportion to the amount each State received under Section 402 for fiscal year 2022.

(2) Notwithstanding paragraph (c)(1) of this section, the total amount of a grant awarded to a State under this section in a fiscal year may not exceed—

(i) For a State described in paragraph (b)(1) of this section, 10 percent of the amount made available to carry out this section for the fiscal year; and

(ii) For a State described in paragraph (b)(2) of this section, 5 percent of the amount made available to carry out this section for the fiscal year.

(d) *Use of grant funds.* A State may use grant funds awarded under Section 1906 only for the costs of—

(1) Collecting and maintaining data on traffic stops;

(2) Evaluating the results of the data; and

(3) Developing and implementing programs, public outreach, and training to reduce the impact of traffic stops described in paragraph (a) of this section.

Subpart D—Administration of the Highway Safety Grants

§ 1300.30 General.

Subject to the provisions of this subpart, the requirements of 2 CFR parts 200 and 1201 govern the implementation and management of State highway safety programs and projects carried out under 23 U.S.C. Chapter 4 and Section 1906.

§ 1300.31 Equipment.

(a) *Title.* Except as provided in paragraphs (e) and (f) of this section, title to equipment acquired under 23 U.S.C. Chapter 4 and Section 1906 will vest upon acquisition in the State or its subrecipient, as appropriate, subject to the conditions in paragraphs (b) through (d) of this section.

(b) *Use.* Equipment may only be purchased if necessary to perform eligible grant activities or if specifically authorized as an allowable use of funds. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the Regional Administrator, and neither the State nor any of its subrecipients or contractors shall encumber the title or interest while such need exists.

(c) *Management and disposition.* Subject to the requirements of paragraphs (b), (d), (e), and (f) of this section, States and their subrecipients and contractors shall manage and dispose of equipment acquired under 23 U.S.C. Chapter 4 and Section 1906 in accordance with State laws and procedures.

(d) *Major purchases and dispositions.* Equipment with a useful life of more than one year and an acquisition cost of $5,000 or more shall be subject to the following requirements:

(1) Purchases shall receive prior written approval from the Regional Administrator;

(2) Dispositions shall receive prior written approval from the Regional Administrator unless the equipment has exceeded its useful life as determined under State law and procedures.

(e) *Right to transfer title.* The Regional Administrator may reserve the right to transfer title to equipment acquired under this part to the Federal Government or to a third party when such third party is eligible under Federal statute. Any such transfer shall be subject to the following requirements:

(1) The equipment shall be identified in the grant or otherwise made known to the State in writing;

(2) The Regional Administrator shall issue disposition instructions within 120 calendar days after the equipment is determined to be no longer needed for highway safety purposes, in the absence of which the State shall follow the applicable procedures in 2 CFR parts 200 and 1201.

(f) *Federally-owned equipment.* In the event a State or its subrecipient is provided federally-owned equipment—

(1) Title shall remain vested in the Federal Government;

(2) Management shall be in accordance with Federal rules and procedures, and an annual inventory listing shall be submitted by the State;

(3) The State or its subrecipient shall request disposition instructions from the Regional Administrator when the item is no longer needed for highway safety purposes.

§ 1300.32 Amendments to annual grant applications.

(a) During the fiscal year of the grant, States may amend the annual grant application, except performance targets, subsequent to the initial approval under § 1300.12. States shall document changes to the annual grant application electronically.

(b) The State shall amend the annual grant application, prior to beginning project performance, to provide complete and updated information at the level of detail required by § 1300.12(b)(2), about each project agreement it enters into.

(c) Amendments and changes to the annual grant application are subject to approval by the Regional Administrator before approval of vouchers for payment, except that amendments to information submitted under § 1300.12(b)(2)(iii) through (vii) do not require approval unless the amendment requires prior approval under 2 CFR 200.407. Regional Administrators will disapprove changes and projects that are inconsistent with the triennial HSP, as updated, or that do not constitute an appropriate use of highway safety grant funds. States are independently responsible for ensuring that projects constitute an appropriate use of highway safety grant funds.

§ 1300.33 Vouchers and project agreements.

(a) *General.* Each State shall submit official vouchers for expenses incurred to the Regional Administrator.

(b) *Content of vouchers.* At a minimum, each voucher shall provide the following information, broken down by individual project agreement:

(1) Project agreement number for which work was performed and payment is sought;

(2) Amount of Federal funds sought, up to the amount identified in § 1300.12(b)(2);

(3) Eligible use of funds;

(4) Amount of Federal funds allocated to local expenditure (provided no less than mid-year (by March 31) and with the final voucher); and

(5) Matching rate (or special matching writeoff used, *i.e.,* sliding scale rate authorized under 23 U.S.C. 120).

(c) *Project agreements.* Copies of each project agreement for which expenses are being claimed under the voucher (and supporting documentation for the vouchers) shall be made promptly available for review by the Regional Administrator upon request. Each project agreement shall bear the project agreement number to allow the Regional Administrator to match the voucher to the corresponding project.

(d) *Submission requirements.* At a minimum, vouchers shall be submitted to the Regional Administrator on a quarterly basis, no later than 15 working days after the end of each quarter, except that where a State receives funds by electronic transfer at an annualized rate of one million dollars or more, vouchers shall be submitted on a monthly basis, no later than 15 working days after the end of each month. A final voucher for the fiscal year shall be submitted to the Regional Administrator no later than 120 days after the end of the fiscal year, and all unexpended balances shall be carried forward to the next fiscal year unless they have lapsed in accordance with § 1300.41.

(e) *Payment.* (1) Failure to provide the information specified in paragraph (b) of this section shall result in rejection of the voucher.

(2) Vouchers that request payment for projects whose project agreement numbers or amounts claimed do not match the projects or exceed the

estimated amount of Federal funds provided under § 1300.12(b)(2) shall be rejected, in whole or in part, until an amended project and/or estimated amount of Federal funds is submitted and, if required, approved by the Regional Administrator in accordance with § 1300.32.

(3) Failure to meet the deadlines specified in paragraph (d) of this section may result in delayed payment.

§ 1300.34 Program income.

(a) *Definition.* Program income means gross income earned by the State or a subrecipient that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.

(b) *Inclusions.* Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds.

(c) *Exclusions.* Program income does not include interest on grant funds, rebates, credits, discounts, taxes, special assessments, levies, and fines raised by a State or a subrecipient, and interest earned on any of them.

(d) *Use of program income*—(1) *Addition.* Program income shall ordinarily be added to the funds committed to the Federal award (*i.e.,* Section 402, Section 405(b), etc.) under which it was generated. Such program income shall be used to further the objectives of the program area under which it was generated.

(2) *Cost sharing or matching.* Program income may be used to meet cost sharing or matching requirements only upon written approval of the Regional Administrator. Such use shall not increase the commitment of Federal funds.

§ 1300.35 Annual report.

Within 120 days after the end of the fiscal year, each State shall submit electronically an Annual Report providing—

(a) *Performance report.* (1) An assessment of the State's progress in achieving performance targets identified in the most recently submitted triennial HSP, as updated in the annual grant application, based on the most currently available data, including:

(i) An explanation of the extent to which the State's progress in achieving those targets aligns with the triennial HSP (*i.e.,* the State has (not) met or is (not) on track to meet target); and

(ii) A description of how the activities conducted under the prior year annual grant application contributed to meeting the State's highway safety performance targets.

(2) An explanation of how the State plans to adjust the strategy for programming funds to achieve the performance targets, if the State has not met or is not on track to meet its performance targets, or an explanation of why no adjustments are needed to achieve the performance targets.

(b) *Activity report.* (1) An explanation of reasons for projects that were not implemented;

(2) A narrative description of the public participation and engagement efforts carried out and how those efforts informed projects implemented under countermeasure strategies during the grant year;

(3) A description of the State's evidence-based enforcement program activities, including discussion of community collaboration efforts and efforts to support data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities; and

(4) Submission of information regarding mobilization participation (*e.g.,* participating and reporting agencies, enforcement activity, citation information, paid and earned media information).

§ 1300.36 Appeal of written decision by a Regional Administrator.

The State shall submit an appeal of any written decision by a Regional Administrator regarding the administration of the grants in writing, signed by the Governor's Representative for Highway Safety, to the Regional Administrator. The Regional Administrator shall promptly forward the appeal to the NHTSA Associate Administrator, Regional Operations and Program Delivery. The decision of the NHTSA Associate Administrator shall be final and shall be transmitted in writing to the Governor's Representative for Highway Safety through the Regional Administrator.

Subpart E—Annual Reconciliation.

§ 1300.40 Expiration of the annual grant application.

(a) The State's annual grant application for a fiscal year and the State's authority to incur costs under that application shall expire on the last day of the fiscal year.

(b) Except as provided in paragraph (c) of this section, each State shall submit a final voucher which satisfies the requirements of § 1300.33(b) within 120 days after the expiration of the annual grant application. The final voucher constitutes the final financial reconciliation for each fiscal year.

(c) The Regional Administrator may extend the time period by no more than 30 days to submit a final voucher only in extraordinary circumstances, consistent with 2 CFR 200.344 and 200.345. States shall submit a written request for an extension describing the extraordinary circumstances that necessitate an extension. The approval of any such request for extension shall be in writing, shall specify the new deadline for submitting the final voucher, and shall be signed by the Regional Administrator.

§ 1300.41 Disposition of unexpended balances.

(a) *Carry-forward balances.* Except as provided in paragraph (b) of this section, grant funds that remain unexpended at the end of a fiscal year and the expiration of an annual grant application shall be credited to the State's highway safety account for the new fiscal year and made immediately available for use by the State, provided the State's new annual grant application has been approved by the Regional Administrator pursuant to § 1300.12(c), including any amendments to the annual grant application pursuant to § 1300.32.

(b) *Deobligation of funds.* (1) Except as provided in paragraph (b)(2) of this section, unexpended grant funds shall not be available for expenditure beyond the period of three years after the last day of the fiscal year of apportionment or allocation.

(2) NHTSA shall notify States of any such unexpended grant funds no later than 180 days prior to the end of the period of availability specified in paragraph (b)(1) of this section and inform States of the deadline for commitment. States may commit such unexpended grant funds to a specific project by the specified deadline, and shall provide documentary evidence of that commitment, including a copy of an executed project agreement, to the Regional Administrator.

(3) Grant funds committed to a specific project in accordance with paragraph (b)(2) of this section shall remain committed to that project and must be expended by the end of the succeeding fiscal year. The final voucher for that project shall be submitted within 120 days after the end of that fiscal year.

(4) NHTSA shall deobligate unexpended balances at the end of the time period in paragraph (b)(1) or (3) of

this section, whichever is applicable, and the funds shall lapse.

§ 1300.42 Post-grant adjustments.

The expiration of an annual grant application does not affect the ability of NHTSA to disallow costs and recover funds on the basis of a later audit or other review or the State's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

§ 1300.43 Continuing requirements.

Notwithstanding the expiration of an annual grant application, the provisions in 2 CFR parts 200 and 1201 and 23 CFR part 1300, including but not limited to equipment and audit, continue to apply to the grant funds authorized under 23 U.S.C. Chapter 4 and Section 1906.

Subpart F—Non-Compliance.

§ 1300.50 General.

Where a State is found to be in non-compliance with the requirements of the grant programs authorized under 23 U.S.C. Chapter 4 or Section 1906, or with other applicable law, the sanctions in §§ 1300.51 and 1300.52, and any other sanctions or remedies permitted under Federal law, including the specific conditions of 2 CFR 200.208 and 200.339, may be applied as appropriate.

§ 1300.51 Sanctions—reduction of apportionment.

(a) *Determination of sanctions.* (1) The Administrator shall not apportion any funds under Section 402 to any State that does not have or is not implementing an approved highway safety program.

(2) If the Administrator has apportioned funds under Section 402 to a State and subsequently determines that the State is not implementing an approved highway safety program, the Administrator shall reduce the apportionment by an amount equal to not less than 20 percent until such time as the Administrator determines that the State is implementing an approved highway safety program. The Administrator shall consider the gravity of the State's failure to implement an approved highway safety program in determining the amount of the reduction.

(i) When the Administrator determines that a State is not implementing an approved highway safety program, the Administrator shall issue to the State an advance notice, advising the State that the Administrator expects to withhold funds from apportionment or reduce the State's apportionment under Section 402. The Administrator shall state the amount of the expected withholding or reduction.

(ii) The State may, within 30 days after its receipt of the advance notice, submit documentation demonstrating that it is implementing an approved highway safety program. Documentation shall be submitted to the NHTSA Administrator, 1200 New Jersey Avenue SE, Washington, DC 20590.

(b) *Apportionment of withheld funds.* (1) If the Administrator concludes that a State has begun implementing an approved highway safety program, the Administrator shall promptly apportion to the State the funds withheld from its apportionment, but not later than July 31 of the fiscal year for which the funds were withheld.

(2)(i) If the Administrator concludes, after reviewing all relevant documentation submitted by the State or if the State has not responded to the advance notice, that the State did not correct its failure to have or implement an approved highway safety program, the Administrator shall issue a final notice, advising the State of the funds being withheld from apportionment or of the reduction of apportionment under Section 402 by July 31 of the fiscal year for which the funds were withheld.

(ii) The Administrator shall reapportion the withheld funds to the other States, in accordance with the formula specified in 23 U.S.C. 402(c), not later than the last day of the fiscal year.

§ 1300.52 Sanctions—risk assessment and non-compliance.

(a) *Risk assessment.* (1) All States receiving funds under the grant programs authorized under 23 U.S.C. Chapter 4 and Section 1906 shall be subject to an assessment of risk by NHTSA. In evaluating risks of a State highway safety program, NHTSA may consider, but is not limited to considering, the following for each State:

(i) Financial stability;

(ii) Quality of management systems and ability to meet management standards prescribed in this part and in 2 CFR part 200;

(iii) History of performance. The applicant's record in managing funds received for grant programs under this part, including findings from Management Reviews;

(iv) Reports and findings from audits performed under 2 CFR part 200, subpart F, or from the reports and findings of any other available audits; and

(v) The State's ability to effectively implement statutory, regulatory, and other requirements imposed on non-Federal entities.

(2) If a State is determined to pose risk, NHTSA may increase monitoring activities and may impose any of the specific conditions of 2 CFR 200.208, as appropriate.

(b) *Non-compliance.* If at any time a State is found to be in non-compliance with the requirements of the grant programs under this part, the requirements of 2 CFR parts 200 and 1201, or with any other applicable law, the actions permitted under 2 CFR 200.208 and 200.339 may be applied as appropriate.

Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants

[*Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.*]

State: _____

Fiscal Year: _____

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, Public Law 109–59, as amended by Section 25024, Public Law 117–58, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

General Requirements

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended;
- Sec. 1906, Public Law 109–59, as amended by Sec. 25024, Public Law 117–58;
- 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs;
- 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR part 1201—Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Intergovernmental Review of Federal Programs

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

Federal Funding Accountability and Transparency Act (FFATA)

The State will comply with FFATA guidance, *OMB Guidance on FFATA Subaward and Executive Compensation*

Reporting, August 27, 2010, (*https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf*) by reporting to *FSRS.gov* for each sub-grant awarded;

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- Unique entity identifier (generated by *SAM.gov*);
- The names and total compensation of the five most highly compensated officers of the entity if:

(i) the entity in the preceding fiscal year received—

(I) 80 percent or more of its annual gross revenues in Federal awards;

(II) $25,000,000 or more in annual gross revenues from Federal awards; and

(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;

- Other relevant information specified by OMB guidance.

Nondiscrimination (Applies to Subrecipients as Well as States)

The State highway safety agency [and its subrecipients] will comply with all Federal statutes and implementing regulations relating to nondiscrimination (''Federal Nondiscrimination Authorities''). These include but are not limited to:

- *Title VI of the Civil Rights Act of 1964* (42 U.S.C. 2000d *et seq.,* 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- *49 CFR part 21* (entitled *Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);*
- *28 CFR 50.3* (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- *The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,* (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- *Federal-Aid Highway Act of 1973,* (23 U.S.C. 324 *et seq.*), *and Title IX of the Education Amendments of 1972,* as amended (20 U.S.C. 1681–1683 and 1685–1686) (prohibit discrimination on the basis of sex);
- *Section 504 of the Rehabilitation Act of 1973,* (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- *The Age Discrimination Act of 1975,* as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- *The Civil Rights Restoration Act of 1987,* (Pub. L. 100–209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms ''programs or activities'' to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- *Titles II and III of the Americans with Disabilities Act* (42 U.S.C. 12131–12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- *Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (preventing discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- *Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency* (requiring that recipients of Federal financial assistance provide meaningful access for applicants and beneficiaries who have limited English proficiency (LEP));
- *Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government* (advancing equity across the Federal Government); and
- *Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation* (clarifying that sex discrimination includes discrimination on the grounds of gender identity or sexual orientation).

The preceding statutory and regulatory cites hereinafter are referred to as the ''Acts'' and ''Regulations,'' respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

''*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including NHTSA.*''

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the Civil Rights Act of 1964 and other non-discrimination requirements (the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Highway Safety Grant Program:

1. The Recipient agrees that each ''activity,'' ''facility,'' or ''program,'' as defined in § 21.23(b) and (e) of 49 CFR part 21 will be (with regard to an ''activity'') facilitated, or will be (with regard to a ''facility'') operated, or will be (with regard to a ''program'') conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Highway Safety Grant Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

''*The [name of Recipient], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C 2000d to 2000d–4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*''

3. The Recipient will insert the clauses of appendix A and E of this Assurance (also referred to as DOT Order 1050.2A) [1] in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of appendix B of DOT Order 1050.2A, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in appendix C and appendix D of this DOT Order 1050.2A, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

[1] *Available at https://www.faa.gov/about/office_org/headquarters_offices/acr/com_civ_support/non_disc_pr/media/dot_order_1050_2A_standard_dot_title_vi_assurances.pdf.*

a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the State highway safety agency also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing NHTSA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by NHTSA. You must keep records, reports, and submit the material for review upon request to NHTSA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The State highway safety agency gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Highway Safety Grant Program. This ASSURANCE is binding on the State highway safety agency, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Highway Safety Grant Program. The person(s) signing below is/are authorized to sign this ASSURANCE on behalf of the Recipient.

The Drug-Free Workplace Act of 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;

2. The grantee's policy of maintaining a drug-free workplace;

3. Any available drug counseling, rehabilitation, and employee assistance programs;

4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;

5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

1. Abide by the terms of the statement;

2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted—

1. Taking appropriate personnel action against such an employee, up to and including termination;

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

Political Activity (Hatch Act) (Applies to Subrecipients as Well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501–1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Certification Regarding Federal Lobbying (Applies to Subrecipients as Well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Restriction on State Lobbying (Applies to Subrecipients as Well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (*e.g.,* ''grassroots'') lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

Certification Regarding Debarment and Suspension (Applies to Subrecipients as Well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded,* as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled ''Instructions for Lower Tier Participant Certification'' including the ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (*https://www.sam.gov/*).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate the transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Tier Covered Transactions

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded,* as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ''Instructions for Lower Tier Participant Certification'' including the ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check

the System for Award Management Exclusions website (*https://www.sam.gov/*).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Buy America (Applies to Subrecipients as Well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

Certification on Conflict of Interest (Applies to Subrecipients as Well as States)

General Requirements

No employee, officer or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.

a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.

b. The code or standards shall establish penalties, sanctions or other disciplinary actions for violations, as permitted by State or local law or regulations.

2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

Disclosure Requirements

No State or its subrecipient, including its officers, employees or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.

2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may (a) terminate the award, or (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.

3. Conflicts of interest that require disclosure include all past, present or currently planned organizational, financial, contractual or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

Prohibition on Using Grant Funds To Check for Helmet Usage (Applies to Subrecipients as Well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

Policy on Seat Belt Use

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at *www.trafficsafety.org.* The NHTSA website (*www.nhtsa.gov*) also provides information on statistics, campaigns, and program evaluations and references.

Policy on Banning Text Messaging While Driving

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

Section 402 Requirements

1. To the best of my personal knowledge, the information submitted in the annual grant application in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.

2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is

suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))

3. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or on behalf of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and on behalf of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

4. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))

5. As part of a comprehensive program, the State will support a data-based traffic safety enforcement program that fosters effective community collaboration to increase public safety, and data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities. (23 U.S.C. 402(b)(1)(E))

6. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:

- Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to—
  - ○ Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
  - ○ Increase use of seat belts by occupants of motor vehicles;
- Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
- An annual statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
- Development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
- Coordination of triennial Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a); and
- Participation in the Fatality Analysis Reporting System (FARS), except for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands.

(23 U.S.C. 402(b)(1)(F))

7. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))

8. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system, except in a work zone or school zone. (23 U.S.C. 402(c)(4))

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

_____

Signature Governor's Representative for Highway Safety

_____

Date

_____

Printed name of Governor's Representative for Highway Safety

Appendix B to Part 1300—Application Requirements for Section 405 and Section 1906 Grants

[*Each fiscal year, to apply for a grant under 23 U.S.C. 405 or Section 1906, Public Law 109–59, as amended by Section 25024, Public Law 117–58, the State must complete and submit all required information in this appendix, and the Governor's Representative for Highway Safety must sign the Certifications and Assurances.*]

State: _____

Fiscal Year: _____

Instructions: Check the box for each part for which the State is applying for a grant, fill in relevant blanks, and identify the attachment number or page numbers where the requested information appears in the triennial HSP or annual grant application. Attachments may be submitted electronically.

☐ Part 1: Occupant Protection Grants (23 CFR 1300.21)

[*Check the box above only if applying for this grant.*]

All States

[*Fill in all blanks below.*]

- The State's occupant protection program area plan for the upcoming fiscal year is provided in the annual grant application at _____ (location).
- The State will participate in the Click it or Ticket national mobilization in the fiscal year of the grant. The description of the State's planned participation is provided in the annual grant application at _____ (location).
- Projects demonstrating the State's active network of child restraint inspection stations are provided in the annual grant application at _____ (location). Such description includes estimates for: (1) the total number of planned inspection stations and events during the upcoming fiscal year; and (2) within that total, the number of planned inspection stations and events serving each of the following population categories: urban, rural, and at-risk. The planned inspection stations/events provided in the annual grant application are staffed with at least one current nationally Certified Child Passenger Safety Technician.
- Projects, as provided in the annual grant application at _____ (location), that include estimates of the total number of classes and total number of technicians to be trained in the upcoming fiscal year to ensure coverage of child passenger safety inspection stations and inspection events by nationally Certified Child Passenger Safety Technicians.

Lower Seat Belt Use States Only

[*Check at least 3 boxes below and fill in all blanks under those checked boxes.*]

☐ The State's primary seat belt use law, requiring all occupants riding in a passenger motor vehicle to be restrained in a seat belt or a child restraint, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citation(s): _____.

☐ The State's occupant protection law, requiring occupants to be secured in a seat belt or age-appropriate child restraint while in a passenger motor vehicle and a minimum fine of $25, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

- _____ Requirement for all occupants to be secured in seat belt or age appropriate child restraint;
- _____ Coverage of all passenger motor vehicles;
- _____ Minimum fine of at least $25;
- _____ Exemptions from restraint requirements.

☐ Projects demonstrating the State's seat belt enforcement plan are provided in the annual grant application at _____ (location).

☐ The projects demonstrating the State's high risk population countermeasure program are provided in the annual grant application at _____ (location).

☐ The State's comprehensive occupant protection program is provided as follows:

- Date of NHTSA-facilitated program assessment conducted within 5 years prior to the application date: _____ (date);
- Multi-year strategic plan: annual grant application or triennial HSP at _____ (location);
- The name and title of the State's designated occupant protection coordinator is _____.
- List that contains the names, titles and organizations of the statewide occupant protection task force membership: annual grant application at _____ (location).

☐ The State's NHTSA-facilitated occupant protection program assessment of all elements of its occupant protection program was conducted on _____ (date) (within 5 years of the application due date);

☐ **Part 2: State Traffic Safety Information System Improvements Grants (23 CFR 1300.22)**

[*Check the box above only if applying for this grant.*]

All States

• The State has a functioning traffic records coordinating committee that meets at least 3 times each year.

• The State has designated a TRCC coordinator.

• The State has established a State traffic records strategic plan, updated annually, that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases.

[*Fill in the blank for the bullet below.*]

• Written description of the performance measure(s), and all supporting data, that the State is relying on to demonstrate achievement of the quantitative improvement in the preceding 12 months of the application due date in relation to one or more of the significant data program attributes is provided in the annual grant application at _____ (location).

☐ **Part 3: Impaired Driving Countermeasures (23 CFR 1300.23(D)–(F))**

[*Check the box above only if applying for this grant.*]

All States

• The State will use the funds awarded under 23 U.S.C. 405(d) only for the implementation of programs as provided in 23 CFR 1300.23(j).

Mid-Range State Only

[*Check one box below and fill in all blanks under that checked box.*]

☐ The State submits its statewide impaired driving plan approved by a statewide impaired driving task force on _____ (date). Specifically—

▪ Annual grant application at _____ (location) describes the authority and basis for operation of the statewide impaired driving task force;

▪ Annual grant application at _____ (location) contains the list of names, titles and organizations of all task force members;

▪ Annual grant application at _____ (location) contains the strategic plan based on Highway Safety Guideline No. 8—Impaired Driving.

☐ The State has previously submitted a statewide impaired driving plan approved by a statewide impaired driving task force on _____ (date) and continues to use this plan.

[*For fiscal year 2024 grant applications only.*]

☐ The State will convene a statewide impaired driving task force to develop a statewide impaired driving plan, and will submit that plan by August 1 of the grant year.

High-Range State Only

[*Check one box below and fill in all blanks under that checked box.*]

☐ The State submits its statewide impaired driving plan approved by a statewide impaired driving task force on _____ (date) that includes a review of a NHTSA-facilitated assessment of the State's impaired driving program conducted on _____ (date). Specifically—

▪ Annual grant application at _____ (location) describes the authority and basis for operation of the statewide impaired driving task force;

▪ Annual grant application at _____ (location) contains the list of names, titles and organizations of all task force members;

▪ Annual grant application at _____ (location) contains the strategic plan based on Highway Safety Guideline No. 8—Impaired Driving;

▪ Annual grant application at ___ (location) addresses any related recommendations from the assessment of the State's impaired driving program;

▪ Annual grant application at ___ (location) contains the projects, in detail, for spending grant funds;

▪ Annual grant application at ___ (location) describes how the spending supports the State's impaired driving program and achievement of its performance targets.

☐ The State submits an updated statewide impaired driving plan approved by a statewide impaired driving task force on ___ (date) and updates its assessment review and spending plan provided in the annual grant application at ___ (location).

[*For fiscal year 2024 grant applications only.*]

☐ The State's NHTSA-facilitated assessment was conducted on ___ (date) (within 3 years of the application due date); OR

☐ The State will conduct a NHTSA-facilitated assessment during the grant year; AND

☐ The State will convene a statewide impaired driving task force to develop a statewide impaired driving plan and will submit that plan by August 1 of the grant year.

☐ **Part 4: Alcohol-Ignition Interlock Laws (23 CFR 1300.23(G))**

[*Check the box above only if applying for this grant.*]

[*Check one box below and fill in all blanks under that checked box.*]

☐ The State's alcohol-ignition interlock law, requiring all individuals convicted of driving under the influence or of driving while intoxicated to drive only motor vehicles with alcohol-ignition interlocks for a period of not less than 180 days, was enacted on ___ (date) and last amended on ___ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

• _____ Requirement for alcohol-ignition interlocks for all DUI offenders for not less than 180 days;

• _____ Identify all alcohol-ignition interlock use exceptions.

☐ The State's alcohol-ignition interlock law, requiring an individual convicted of driving under the influence of alcohol or of driving while intoxicated, and who has been ordered to use an alcohol-ignition interlock, and does not permit the individual to receive any driving privilege or driver's license unless the individual installs on each motor vehicle registered, owned, or leased by the individual an alcohol-ignition interlock for a period of not less than 180 days, was enacted on ___ (date) and last amended on ___ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

• _____ Requirement for installation of alcohol ignition-interlocks for DUI offenders for not less than 180 days;

• _____ Identify all alcohol-ignition interlock use exceptions.

☐ The State's alcohol-ignition interlock law, requiring an individual convicted of, or the driving privilege of whom is revoked or denied, for refusing to submit to a chemical or other appropriate test for the purpose of determining the presence or concentration of any intoxicating substance, and who has been ordered to use an alcohol-ignition interlock, requires the individual to install on each motor vehicle to be operated by the individual an alcohol-ignition interlock for a period of not less than 180 days, was enacted on ___ (date) and last amended on ___ (date), is in effect, and will be enforced during the fiscal year of the grant; and

The State's compliance-based removal program, requiring an individual convicted of driving under the influence of alcohol or of driving while intoxicated, and who has been ordered to use an alcohol-ignition interlock, requires the individual to install on each motor vehicle to be operated by the individual an alcohol-ignition interlock for a period of not less than 180 days, was enacted (if a law) or implemented (if a program) on ___ (date) and last amended on ___ (date), is in effect, and will be enforced during the fiscal year of the grant; and

The State's compliance-based removal program, requiring completion of a minimum consecutive period of not less than 40 percent of the required period of alcohol-ignition interlock installation immediately prior to the end of the individual's installation requirement, without a confirmed violation of the State's alcohol-ignition interlock program use requirements, was enacted (if a law) or implemented (if a program) on ___ (date) and last amended on ___ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

• _____ Requirement for installation of alcohol-ignition interlocks for refusal to submit to a test for 180 days;

• _____ Requirement for installation of alcohol ignition-interlocks for DUI offenders for not less than 180 days;

• _____ Requirement for completion of minimum consecutive period of not less than 40 percent of the required period of alcohol-interlock use;

• _____ Identify list of alcohol-ignition interlock program use violations;

• _____ Identify all alcohol-ignition interlock use exceptions.

☐ **Part 5: 24–7 Sobriety Programs (23 CFR 1300.23(H))**

[*Check the box above only if applying for this grant.*]

[*Fill in all blanks.*]

The State provides citations to a law that requires all individuals convicted of driving under the influence or of driving while intoxicated to receive a restriction on driving privileges that was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant. *Legal citation(s):* _____.

[*Check at least one of the boxes below and fill in all blanks under that checked box.*]

☐ *Law citation.* The State provides citations to a law that authorizes a statewide 24–7 sobriety program that was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant. *Legal citation(s):* _____.

☐ *Program information.* The State provides program information that authorizes a statewide 24–7 sobriety program. The program information is provided in the annual grant application at _____ (location).

☐ **Part 6: Distracted Driving Grants (23 CFR 1300.24)**

[*Check the box above only if applying for this grant and check the box(es) below for each grant for which you wish to apply.*]

☐ The State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria (MMUCC) and will provide supporting data (*i.e.,* the State's most recent crash report with distracted driving data element(s)) within 30 days after notification of award.

☐ *Distracted Driving Awareness Grant*

• The State provides sample distracted driving questions from the State's driver's license examination in the annual grant application at _____ (location).

Distracted Driving Law Grants

[*Check at least 1 box below and fill in all blanks under that checked box.*]

☐ *Prohibition on Texting While Driving*

The State's texting ban statute, prohibiting texting while driving and requiring a fine, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Prohibition on texting while driving;

▪ _____ Definition of covered wireless communication devices;

▪ _____ Fine for an offense;

▪ _____ Exemptions from texting ban.

☐ *Prohibition on Handheld Phone Use While Driving*

The State's handheld phone use ban statute, prohibiting a driver from holding a personal wireless communications device while driving and requiring a fine for violation of the law, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Prohibition on handheld phone use;

▪ _____ Definition of covered wireless communication devices;

▪ _____ Fine for an offense;

▪ _____ Exemptions from handheld phone use ban.

☐ *Prohibition on Youth Cell Phone Use While Driving*

The State's youth cell phone use ban statute, prohibiting youth cell phone use while driving, and requiring a fine, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Prohibition on youth cell phone use while driving;

▪ _____ Definition of covered wireless communication devices;

▪ _____ Fine for an offense;

▪ _____ Exemptions from youth cell phone use ban.

☐ *Prohibition on Viewing Devices While Driving*

The State's viewing devices ban statute, prohibiting drivers from viewing a device while driving, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Prohibition on viewing devices while driving;

▪ _____ Definition of covered wireless communication devices;

☐ **Part 7: Motorcyclist Safety Grants (23 CFR 1300.25)**

[*Check the box above only if applying for this grant.*]

[*Check at least 2 boxes below and fill in all blanks under those checked boxes only.*]

☐ *Motorcycle Rider Training Course*

• The name and organization of the head of the designated State authority over motorcyclist safety issues is _____.

• The head of the designated State authority over motorcyclist safety issues has approved and the State has adopted one of the following introductory rider curricula:

[*Check at least one of the following boxes below and fill in any blanks.*]

☐ Motorcycle Safety Foundation Basic Rider Course;

☐ TEAM OREGON Basic Rider Training;

☐ Idaho STAR Basic I;

☐ California Motorcyclist Safety Program Motorcyclist Training Course;

☐ Other curriculum that meets NHTSA's Model National Standards for Entry-Level Motorcycle Rider Training and that has been approved by NHTSA.

• In the annual grant application at _____ (location), a list of counties or political subdivisions in the State where motorcycle rider training courses will be conducted during the fiscal year of the grant AND number of registered motorcycles in each such county or political subdivision according to official State motor vehicle records.

☐ *Motorcyclist Awareness Program*

• The name and organization of the head of the designated State authority over motorcyclist safety issues is _____.

• The State's motorcyclist awareness program was developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues.

• In the annual grant application at _____ (location), performance measures and corresponding performance targets developed for motorcycle awareness that identify, using State crash data, the counties or political subdivisions within the State with the highest number of motorcycle crashes involving a motorcycle and another motor vehicle.

• In the annual grant application at _____ (location), the projects demonstrating that the State will implement data-driven programs in a majority of counties or political subdivisions where the incidence of crashes involving a motorcycle and another motor vehicle is highest, and a list that identifies, using State crash data, the counties or political subdivisions within the State ranked in order of the highest to lowest number of crashes involving a motorcycle and another motor vehicle per county or political subdivision.

☐ *Helmet Law*

The State's motorcycle helmet law, requiring the use of a helmet for each motorcycle rider under the age of 18, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citation(s): _____.

☐ *Reduction of Fatalities and Crashes Involving Motorcycles*

• Data showing the total number of motor vehicle crashes involving motorcycles is provided in the annual grant application at _____ (location).

• Description of the State's methods for collecting and analyzing data is provided in the annual grant application at _____ (location).

☐ *Impaired Motorcycle Driving Program*

• In the annual grant application or triennial HSP at _____ (location), performance measures and corresponding performance targets developed to reduce impaired motorcycle operation.

• In the annual grant application at _____ (location), countermeasure strategies and projects demonstrating that the State will implement data-driven programs designed to reach motorcyclists and motorists in those jurisdictions where the incidence of motorcycle crashes involving an impaired operator is highest (*i.e.,* the majority of counties or political subdivisions in the State with the highest numbers of motorcycle crashes involving an impaired operator) based upon State data.

☐ *Reduction of Fatalities and Crashes Involving Impaired Motorcyclists*

• Data showing the total number of reported crashes involving alcohol-impaired and drug-impaired motorcycle operators are

provided in the annual grant application at _____ (location).

• Description of the State's methods for collecting and analyzing data is provided in the annual grant application at _____ (location).

☐ *Use of Fees Collected From Motorcyclists for Motorcycle Programs*

[*Check one box only below and fill in all blanks under the checked box only.*]

☐ Applying as a Law State—

• The State law or regulation requires all fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs. *Legal citation(s):* _____.

AND

• The State's law appropriating funds for FY ____ demonstrates that all fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs are spent on motorcycle training and safety programs. *Legal citation(s):* _____.

☐ Applying as a Data State—

• Data and/or documentation from official State records from the previous fiscal year showing that *all* fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs were used for motorcycle training and safety programs is provided in the annual grant application at _____ (location).

☐ **Part 8: Nonmotorized Safety Grants (23 CFR 1300.26)**

[*Check the box above only if applying for this grant and only if NHTSA has identified the State as eligible because the State annual combined nonmotorized road user fatalities exceed 15 percent of the State's total annual crash fatalities based on the most recent calendar year final FARS data, then fill in the blank below.*]

• The list of project(s) and subrecipient(s) information that the State plans to conduct under this program is provided in the annual grant application at _____(location(s)).

☐ **Part 9: Preventing Roadside Deaths Grants (23 CFR 1300.27)**

[*Check the box above only if applying for this grant, then fill in the blank below.*]

☐ The State's plan describing the method by which the State will use grant funds is provided in the annual grant application at _____(location(s)).

☐ **Part 10: Driver and Officer Safety Education Grants (23 CFR 1300.28)**

[*Check the box above only if applying for this grant.*]

[*Check one box only below and fill in required blanks under the checked box only.*]

☐ *Driver Education and Driving Safety Courses*

[*Check one box only below and fill in all blanks under the checked box only.*]

☐ Applying as a law State—

The State law requiring that driver education and driver safety courses include instruction and testing related to law enforcement practices during traffic stops was enacted on _____(date) and last amended on _____(date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citation(s): _____ _____.

☐ Applying as a documentation State—

• The State has developed and is implementing a driver education and driving safety course throughout the State that require driver education and driver safety courses to include instruction and testing related to law enforcement practices during traffic stops.

• Curriculum or course materials, and citations to grant required topics within, are provided in the annual grant application at _____(location).

☐ *Peace Officer Training Programs*

[*Check one box only below and fill in all blanks under the checked box only.*]

☐ Applying as a law State—

The State law requiring that the State has developed and implemented a training program for peace officers and reserve law enforcement officers with respect to proper interaction with civilians during traffic stops was enacted on _____(date) and last amended on _____(date), is in effect, and will be enforced during the fiscal year of the grant.

Legal citation(s): _____ _____.

☐ Applying as a documentation State—

• The State has developed and is implementing a training program for peace officers and reserve law enforcement officers with respect to proper interaction with civilians during traffic stops.

• Curriculum or course materials, and citations to grant required topics within, are provided in the annual grant application at _____(location).

☐ Applying as a qualifying State—

• A proposed bill or planning or strategy documents that identify meaningful actions that the State has taken and plans to take to develop and implement a qualifying law or program is provided in the annual grant application at _____(location).

• A timetable for implementation of a qualifying law or program within 5 years of initial application for a grant under this section is provided in the annual grant application at _____(location).

☐ **Part 11: Racial Profiling Data Collection Grants (23 CFR 1300.29)**

[*Check the box above only if applying for this grant.*]

[*Check one box only below and fill in all blanks under the checked box only.*]

☐ The official document(s) (*i.e.,* a law, regulation, binding policy directive, letter from the Governor or court order) demonstrates that the State maintains and allows public inspection of statistical information on the race and ethnicity of the driver for each motor vehicle stop made by a law enforcement officer on all public roads except those classified as local or minor rural roads are provided in the annual grant application at _____(location).

☐ The projects that the State will undertake during the fiscal year of the grant to maintain and allow public inspection of statistical information on the race and ethnicity of the driver for each motor vehicle stop made by a law enforcement officer on all public roads except those classified as local or minor rural roads are provided in the annual grant application at _____(location).

In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following certifications and assurances—

• I have reviewed the above information in support of the State's application for 23 U.S.C. 405 and Section 1906 grants, and based on my review, the information is accurate and complete to the best of my personal knowledge.

• As condition of each grant awarded, the State will use these grant funds in accordance with the specific statutory and regulatory requirements of that grant, and will comply with all applicable laws, regulations, and financial and programmatic requirements for Federal grants.

• I understand and accept that incorrect, incomplete, or untimely information submitted in support of the State's application may result in the denial of a grant award.

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

_____

Signature Governor's Representative for Highway Safety

_____

Date

_____

Printed name of Governor's Representative for Highway Safety

Issued in Washington, DC, under authority delegated in 49 CFR 1.95.

Ann Carlson,

Acting Administrator.

[FR Doc. 2023–01819 Filed 2–3–23; 8:45 am]

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