AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 88 Wednesday,
No. 55 March 22, 2023

Pages 17143–17362

OFFICE OF THE FEDERAL REGISTER

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

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 88 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

Contents

Federal Register

Vol. 88, No. 55

Wednesday, March 22, 2023

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Initial Suitability Request, 17264–17265

Centers for Disease Control and Prevention
NOTICES
Award of a Single-Source Cooperative Agreement to Fund the Gambella Regional Health Bureau of Ethiopia, 17228–17229
Award of a Single-Source Cooperative Agreement:
Ethiopian Public Health Institute, 17227–17228
Government of Botswana, 17228
Public Health Institute of Malawi, 17229

Children and Families Administration
NOTICES
Statement of Organization, Functions, and Delegations of Authority, 17229–17233

Coast Guard
RULES
Security Zone:
Cooper River, Charleston, SC, 17145–17147

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Community Development Financial Institutions Fund
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 17298

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 17186

Copyright Royalty Board
NOTICES
Distribution of 2020 Cable Royalty Funds, 17272
Distribution of 2020 Satellite Royalty Funds, 17271

Defense Acquisition Regulations System
RULES
Defense Federal Acquisition Regulation Supplement:
Contract Administration Office Functions Relating to Direct Costs, 17354–17355
Ground and Flight Risk, 17346–17354
Noncommercial Computer Software, 17340–17345
Technical Amendments, 17355–17356
Use of Supplier Performance Risk System Assessments, 17336–17340
PROPOSED RULES
Defense Federal Acquisition Regulation Supplement:
Export-Controlled Items, 17357–17360
Restrictions on Overhaul and Repair of Naval Vessels in Foreign Shipyards, 17360–17362

Defense Department
See Defense Acquisition Regulations System
See Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17186–17187, 17193, 17199
Arms Sales, 17187–17198

Drug Enforcement Administration
NOTICES
Decision and Order:
Christina Collins, APRN, 17267–17268
Heather M. Entrekin, DVM, 17266–17267
Karl Kauffman, MD, 17268–17269
Shahid Masood, MD, 17265–17266

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Guidance and Application:
Hydroelectric Efficiency Improvement Incentives, 17200–17201
Hydroelectric Production Incentives, 17202–17203
Meetings:
Basic Energy Sciences Advisory Committee, 17200
Environmental Management Site-Specific Advisory Board, Hanford, 17201–17202
Environmental Management Site-Specific Advisory Board, Nevada, 17202
Environmental Management Site-Specific Advisory Board, Northern New Mexico, 17203–17204

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Alaska; Adoption and Permitting Rule Updates, 17159–17161
Indiana; Revisions to Particulate Matter Rules; Vertellus, 17161–17163
NOTICES
Meetings:
Clean Air Scientific Advisory Committee Lead Panel, 17218–17219
Privacy Act; System of Records, 17219–17222
Proposed Radon Credentialing Criteria, 17215–17218
Prospective Lessee Agreement:
Agnico Eagle Mines Ltd., Agnico Eagle (USA) Ltd., Lawrence County, SD, 17215

Equal Employment Opportunity Commission
RULES
Regulations under the Genetic Information Nondiscrimination Act; Correction, 17145

Federal Communications Commission
PROPOSED RULES
Radio Broadcasting Services:
Tecopa, CA, 17171

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17222–17224

Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Participation in the National Flood Insurance Program, 17241–17242

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17206–17207
Application:
Columbia Gas Transmission, LLC, 17209–17211
Eagle Crest Energy Co., 17204–17205
Northern Natural Gas Co., 17211–17213
Application;
Pacific Gas and Electric Co., 17207–17208
Combined Filings, 17207
Environmental Assessments; Availability, etc.:
Community of Elfin Cove Non Profit Corp. DBA Elfin Cove Utility Commission, 17209
Saguaro Connector Pipeline, LLC, 17208–17209
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
AmeriPro Energy Corp., 17214–17215
Institution of Section 206 Proceeding and Refund Effective Date:
Commonwealth Edison Co., 17214
Midcontinent Independent System Operator, Inc., 17211
Request for Extension of Time:
Sabal Trail Transmission, LLC, 17205–17206
Texas Eastern Transmission, LP, 17213–17214
Water Quality Certification:
Erie Boulevard Hydropower, LP; Denial, 17207
New York Power Authority; Denial, 17206

Federal Financial Institutions Examination Council
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Appraiser Profession Survey, 17224–17226

Federal Highway Administration
NOTICES
Final Federal Agency Actions:
Proposed Highway in California, 17284–17285

Federal Motor Carrier Safety Administration
NOTICES
Exemption Application:
Qualification of Drivers; Epilepsy and Seizure Disorders, 17287–17289
Qualification of Drivers; Hearing, 17285–17287

Federal Railroad Administration
PROPOSED RULES
Emergency Escape Breathing Apparatus Standards, 17302–17334
NOTICES
Advancing High-Speed Rail Projects Intended for Operations over 160 Miles per Hour through Domestic Sourcing Plans and Buy America Compliance, 17289–17291

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 17226–17227
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 17227
Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies, 17227

Food and Drug Administration
NOTICES
Determination of Regulatory Review Period for Purposes of Patent Extension:
Galafold, 17235–17236
Mulpleta, 17233–17235

Foreign Assets Control Office
NOTICES
Sanctions Action, 17298–17299

Foreign-Trade Zones Board
NOTICES
Authorization of Production Activity:
Foreign-Trade Zone 125, REV Recreation Group, Inc. d/b/a Midwest Automotive Designs, (Passenger Vehicles); Elkhart, IN, 17177
Moly-Cop USA, LLC; (Forged Steel Grinding Balls); Foreign-Trade Zone 15;; Kansas City, MO, 17177

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Low-Income Levels Used for Various Health Professions and Nursing Programs Authorized in the Public Health Service Act, 17238–17239
National Vaccine Injury Compensation Program:
List of Petitions Received, 17236–17238

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Indian Affairs Bureau
NOTICES
Indian Child Welfare Act:
Designated Tribal Agents for Service of Notice, 17242–17263

Interior Department
See Indian Affairs Bureau
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Aluminum Foil from the People's Republic of China, 17177–17182
Meetings:
Environmental Technologies Trade Advisory Committee, 17183

Renewable Energy and Energy Efficiency Advisory Committee, 17182–17183

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
See Drug Enforcement Administration

Labor Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Labor Market Information Cooperative Agreement, 17270–17271
Rehabilitation Act, 17270

Land Management Bureau
NOTICES
Environmental Assessments; Availability, etc.:
Resource Management Plan for the Campbell Tract Special Recreation Management Area, Anchorage, AK, 17263–17264

Library of Congress
See Copyright Royalty Board

Management and Budget Office
NOTICES
Delegation of Apportionment Authority, 17272

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Financial Assistance Awards/Grants and Cooperative Agreements, 17273–17274
Safety and Health Measures and Mishap Reporting, 17272–17273

National Highway Traffic Safety Administration
NOTICES
Petition for Decision of Inconsequential Noncompliance:
Daimler Trucks North America, LLC; Denial, 17291–17295

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 17239
National Human Genome Research Institute, 17239–17240
National Institute of Allergy and Infectious Diseases, 17239–17240
National Institute of Neurological Disorders and Stroke, 17240
Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities, 17240–17241

National Oceanic and Atmospheric Administration
PROPOSED RULES
Atlantic Highly Migratory Species:
Prohibiting Retention of Oceanic Whitetip Sharks in U.S. Atlantic Waters and Hammerhead Sharks in the U.S. Caribbean Sea, 17171–17176
NOTICES
Application:
Marine Mammals; File No. 27193, 17184–17185
Meetings:
Mid-Atlantic Fishery Management Council, 17186
New England Fishery Management Council, 17183–17184
Pacific Fishery Management Council, 17186
Science Advisory Board, 17185
Western Pacific Fishery Management Council, 17184

Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17199–17200

Nuclear Regulatory Commission
PROPOSED RULES
List of Approved Spent Fuel Storage Casks:
Holtec International HI-STORM 100 Cask System, Certificate of Compliance No. 1014, Renewal of Initial Certificate and Amendment Nos. 1 Through 15, 17164–17165
Regulatory Guide:
Perimeter Intrusion Alarm Systems, 17165–17166
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Suspicious Activity Reporting Using the Protective Web Server, 17280–17281
Environmental Assessments; Availability, etc.:
GE-Hitachi Nuclear Energy Americas, LLC; Nuclear Test Reactor, 17274–17280

Patent and Trademark Office
RULES
Reducing Patent Fees for Small Entities and Micro Entities under the Unleashing American Innovators Act of 2022, 17147–17158

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Hazardous Materials, 17295–17297

Postal Regulatory Commission
NOTICES
New Postal Products, 17281–17282

Postal Service
NOTICES
Product Change:
First-Class Package Service & Parcel Select Service Negotiated Service Agreement, 17283
Priority Mail and Parcel Select Negotiated Service Agreement, 17282
Priority Mail Express and Priority Mail Negotiated Service Agreement, 17282
Priority Mail Negotiated Service Agreement, 17283

Presidential Documents
PROCLAMATIONS
Special Observances:
National Poison Prevention Week (Proc. 10531), 17143–17144

Securities and Exchange Commission
NOTICES
Application:
Pender Real Estate Credit Fund and Pender Capital Management, LLC, 17283

State Department
NOTICES
Delegation of Authorities:
Secure Embassy Construction and Counterterrorism Act, 17283–17284

Transportation Department
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
See Community Development Financial Institutions Fund
See Foreign Assets Control Office

Veterans Affairs Department
PROPOSED RULES
Names for National Cemeteries and Features, 17169–17171
Reevaluation of Claims for Dependency and Indemnity Compensation, 17166–17169

Separate Parts In This Issue

Part II
Transportation Department, Federal Railroad Administration, 17302–17334

Part III
Defense Department, Defense Acquisition Regulations System, 17336–17362

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

10531 17143

10 CFR

Proposed Rules:

72 17164
73 17165

29 CFR

1635 17145

33 CFR

165 17145

37 CFR

1 17147
41 17147

38 CFR

Proposed Rules:

3 17166
38 17169

40 CFR

52 (2 documents) 17159, 17161

47 CFR

Proposed Rules:

73 17171

48 CFR

204 17336
208 17336
209 17336
212 17336
213 17336
215 17336
216 17336
227 17340
228 17346
237 17340
239 17340
242 (2 documents) 17346, 17354
243 17355
252 (4 documents) 17336, 17340, 17346, 17355

Proposed Rules:

212 17357
225 (2 documents) 17357, 17360
252 17357

49 CFR

Proposed Rules:

227 17302

50 CFR

Proposed Rules:

635 17171

Federal Register
Vol. 88, No. 55
Wednesday, March 22, 2023

Presidential Documents

Title 3—

The President

Proclamation 10531 of March 17, 2023

National Poison Prevention Week, 2023

By the President of the United States of America

A Proclamation

Each year, Americans report more than 2 million poisoning cases and tens of thousands of children are treated for poisoning in emergency rooms after accidentally ingesting dangerous household chemicals. For survivors and their families, the experience can be traumatizing and recovery can be long and difficult. During National Poison Prevention Week, we urge every American to take careful steps to keep their loved ones safe, and we thank the poison control centers across the country that stand guard, providing lifesaving advice and care around the clock.

The Congress has worked for decades to protect Americans from poisonous household products, and President John F. Kennedy issued the first Presidential Proclamation calling out this threat in 1962. Today, that work continues. Most poisoning cases are accidental and preventable, often involving children who mistakenly ingest medicines, batteries, dangerous chemicals found in household cleaning items, hand sanitizers, or even the liquid nicotine used in e-cigarettes.

It is essential to store harmful products in child-resistant packaging, throw away unfinished medicines, and keep other potential poisons out of the sight and reach of small children. That is why, last year, I signed a new law to improve child-resistant closures on consumer products that use small batteries. And we need to encourage older Americans to clearly label their medications or keep them in their original packaging to avoid dangerous mix-ups.

We cannot ignore the equally important fact that Americans are being poisoned by illegal synthetic opioids, including highly toxic fentanyl, sometimes even on their first use. More than 107,000 Americans lost their lives to a drug overdose or poisoning in 2021. My National Drug Control Strategy takes aggressive action to disrupt supply and to expand access to lifesaving naloxone, treatments, and recovery services while also investing in prevention.

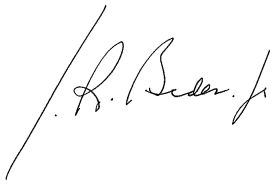
Anyone who thinks that someone, including themselves, has been poisoned should immediately call the National Poison Control help line at 800–222–1222 to be connected to a local poison control center. Trained experts, including doctors, nurses, and pharmacists, are ready to offer real-time help and can often solve a poisoning emergency over the phone. Learn more about their lifesaving services at poisonhelp.hrsa.gov.

To encourage Americans to learn more about the dangers of unintentional poisonings and to take appropriate preventive measures, on September 26, 1961, the United States Congress, by joint resolution (75 Stat. 681), authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim March 19 through March 25, 2023, to be National Poison Prevention Week. I call upon all Americans to observe this week by taking actions to safeguard their families and friends from poisonous products, chemicals, and medicines often found in our homes

and to raise awareness of these dangers to prevent accidental injuries and deaths.

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



[FR Doc. 2023–05989
Filed 3–21–23; 8:45 am]
Billing code 3395–F3–P

Rules and Regulations

Federal Register

Vol. 88, No. 55

Wednesday, March 22, 2023

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

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1635

RIN 3046–AB02

Regulations Under the Genetic Information Nondiscrimination Act of 2008; Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Correcting amendment.

SUMMARY: The Equal Employment Opportunity Commission (''EEOC'' or ''Commission'') is hereby making a technical amendment to the regulations implementing Title II of the Genetic Information Nondiscrimination Act of 2008 (''GINA''). Currently, the authority citation includes a typographical error. This final action will make the authority citation accurate. The amendment is administrative in nature and does not make any substantive changes to the regulations governing GINA.

DATES: This correction is effective March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Kerry Leibig, Senior Attorney Advisor, at 202–921–2663 or *kerry.leibig@eeoc.gov.*

SUPPLEMENTARY INFORMATION: Title II of GINA was enacted to protect job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. The regulations implementing the law were first published in the **Federal Register** on November 9, 2009 (75 FR 68912). The regulations were amended by a final rule published in the **Federal Register** on May 17, 2016 (81 FR 31143) and then partially rescinded in a final rule published in the **Federal Register** on December 20, 2018 (83 FR 65296). When the May 2016 final rule was published, a typographical error was introduced into the citation to the statutory authority for the rule. The authority citation currently provided lists 29 U.S.C. 2000ff as the statutory authority for the regulations, instead of 42 U.S.C. 2000ff. This technical amendment corrects that error.

List of Subjects in 29 CFR Part 1635

Administrative practice and procedure, Equal employment opportunity.

Accordingly, 29 CFR part 1635 is corrected by making the following correcting amendment:

PART 1635—GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008

■ 1. The authority citation for part 1635 is revised to read as follows:

Authority: 110 Stat. 233; 42 U.S.C. 2000ff.

Dated: March 15, 2023.

For the Commission,

Charlotte A. Burrows,

Chair.

[FR Doc. 2023–05679 Filed 3–21–23; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0151]

RIN 1625–AA87

Security Zone; Cooper River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for certain waters of the Cooper River near Charleston and Mount Pleasant, South Carolina. This action is necessary to provide for the security and protection of life on these navigable waters near the Arthur Ravenel Jr. Bridge over the Cooper River during the Cooper River Bridge Run. This rulemaking would prohibit persons and vessels entering the security zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 7:30 a.m. until 10:30 a.m., on April 1, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0151 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Thomas J. Welker, Sector Charleston, Waterways Management Division, U.S. Coast Guard; telephone (843) 740–3184, email *Thomas.J.Welker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The developments and planning for official patrol of the security zone prevented sufficient the Coast Guard from taking action sooner, therefore the Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule, since this rule is needed by April 1, 2023. It would be contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety and security of participants while on the Arthur Ravenel Jr. Bridge.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of

this rule would be impracticable and contrary to the public interest because the temporary security zone must be established on April 1, 2023 to ensure safety and security of event participants.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70124. The Captain of the Port Charleston (COTP) has determined that this event requires certain waterside security measures to protect the bridge and event participants from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature.

IV. Discussion of the Rule

This rule establishes a security zone from 7:30 a.m. until 10:30 a.m. on April 1, 2023. The security zone would cover all navigable waters encompassed within the following points beginning at 32°48′32″ N, 079°56′08″ W, thence east to 32°48′20″ N, 079°54′18″ W, thence south to 32°47′20″ N, 079°54′29″ W, thence west to 32°47′20″ N, 079°55′28″ W, thence north to origin. All coordinates are 1984 World Geodetic System (WGS 84). No vessel or person will be permitted to enter, transit through, anchor in or remain within the security zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on: (1) the security zone would only be enforced for a total of three hours; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they would be able operate in the surrounding areas during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative; and (4) the Coast Guard will provide advance notification of the zone to the local maritime community by Broadcast Notice to Mariners, or by on-scene designated representatives.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a security zone lasting only 3 hours that will prohibit persons and vessels from

entering, transiting through, anchoring in, or remaining within a limited area surrounding the Arthur Ravenel Jr. Bridge over the Cooper River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T07–0151 to read as follows:

§ 165.T07–0151 Security Zone; Cooper River Bridge Run, Charleston, SC

(a) *Location.* The following area is a security zone: All waters of the Cooper River, and Town Creek Reaches encompassed within the following points: beginning at 32°48′32″ N, 079°56′08″ W, thence east to 32°48′20″ N, 079°54′18″ W, thence south to 32°47′20″ N, 079°54′29″ W, thence west to 32°47′20″ N, 079°55′28″ W, thence north to origin. All coordinates are 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the security zone.

(c) *Regulations.* (1) No person or vessel will be permitted to enter, transit, anchor, or remain within the security zone described in paragraph (a) of this section unless authorized by the COTP Charleston or a designated representative. If authorization is granted, persons and/or vessels receiving such authorization must comply with the instructions of the COTP Charleston or designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 843–740–7050 or via VHF radio on channel 16. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. until 10:30 a.m., on April 1, 2023.

Dated: March 16, 2023.

J.D. Cole,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2023–05839 Filed 3–21–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 41

[Docket No. PTO–P–2023–0005]

RIN 0651–AD66

Reducing Patent Fees for Small Entities and Micro Entities Under the Unleashing American Innovators Act of 2022

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office or USPTO) amends patent fees for small and micro entities set forth in its regulations to implement the provisions of the Consolidated Appropriations Act, 2023—which included the Unleashing American Innovators Act of 2022 (UAIA). The UAIA, signed into law on December 29, 2022, supports the USPTO's efforts to reduce the innovation ecosystem's barriers to entry. The UAIA increased fee discounts for small entities from 50% to 60% and fee discounts for micro entities from 75% to 80% for fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The UAIA also increased fee discounts for small entities from 75% to 80% for filing a basic nonprovisional utility application electronically.

DATES:

Effective date: This final rule is effective March 22, 2023, except for the amendment to § 1.16(u) at instruction 3, which is effective on April 3, 2023.

Applicability: The amendments to §§ 1.445(a)(5) and 1.482 shall apply to those international applications under the Patent Cooperation Treaty having a receipt date on or after April 1, 2023. The amendments to § 1.18(b)(1) shall apply to those international design applications under the Hague Agreement having a date of international registration on or after May 1, 2023.

FOR FURTHER INFORMATION CONTACT: Brendan Hourigan, Director, Office of Planning and Budget, by telephone at 571–272–8966, or by email at *Brendan.Hourigan@uspto.gov;* or Dianne Buie, Director, Forecasting and Analysis Division, by telephone at 571–272–6301, or by email at *Dianne.Buie@uspto.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of This Action

The Office issues this final rule to amend 37 CFR parts 1 and 41 to reflect amendments enacted by the UAIA on December 29, 2022. *See* Consolidated Appropriations Act, 2023, Public Law 117–328. Section 107 of the UAIA, ''Fee Reduction for Small and Micro Entities,'' amended 35 U.S.C. 41(h)(1) and section 10(b) of the America Invents Act (AIA), Public Law 112–29, 125 Stat. 284, as amended by the SUCCESS Act, Public Law 115–273, 132 Stat. 4158, by (1) striking ''50 percent'' and inserting ''60 percent'' for fee reductions for small entities and (2) by striking ''75 percent'' and inserting ''80 percent'' for fee reductions for micro entities. Consequently, the Office is now required under 35 U.S.C. 41(h)(1) and section 10(b) of the AIA to reduce patent fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents by 60% for small entities and by 80% for micro entities. Section 107 of the UAIA also amended 35 U.S.C. 41(h)(3) by striking ''75 percent'' and inserting ''80 percent'' for fee reductions for small entities filing a basic nonprovisional utility application electronically under 35 U.S.C. 41(a)(1)(A). Fee rates reflecting these amended discounts for small and micro entities were made available to the public on December 29, 2022, and published on the USPTO's website, *https://www.uspto.gov/fees.*

The changes in this final rule apply to any small or micro entity that pays any patent fee set forth in this final rule. The reduced fee rates (60% for small entities and 80% for micro entities) apply to any small entity asserting small entity status and to any micro entity certifying micro entity status for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

Due to the USPTO's requirement to provide advance notification to the World Intellectual Property Organization (WIPO) for certain fee changes before such fee changes can take effect, as provided under the Hague Agreement and the Patent Cooperation Treaty, the discount to certain small and micro fees are delayed until the expiration of the applicable notification period. The changes to § 1.18(b)(1) shall apply to those international design applications under the Hague Agreement having a date of international registration on or after May 1, 2023. Certain changes to § 1.445(a)(2) and (a)(3) shall apply to those international applications under the Patent Cooperation Treaty having a receipt date on or after April 1, 2023. The changes to § 1.445(a)(5) and § 1.482 shall take effect on April 1, 2023.

Discussion of Specific Rules

The following table shows all of the small entity and micro entity fees in 37 CFR parts 1 and 41 that are being adjusted in this final rule to reflect the new small entity and micro entity discounts. Only the fee amounts for small and micro entities set forth below are being adjusted. Any other fees paid by small and micro entities are not affected by this final rule.

TABLE 1—CFR FEE CHANGES

CFR section	Fee code	Description	Entity type	Previous fees (dollars)	Final rule fees (dollars)
1.16(a)	2011	Basic filing fee—Utility (paper filing also requires non-electronic filing fee under 1.16(t)).	Small	$160	$128
1.16(a)	3011	Basic filing fee—Utility (paper filing also requires non-electronic filing fee under 1.16(t)).	Micro	80	64
1.16(a)	4011	Basic filing fee—Utility (electronic filing for small entity)	Small	80	64
1.16(b)	2012	Basic filing fee—Design	Small	110	88
1.16(b)	2017	Basic filing fee—Design (CPA)	Small	110	88
1.16(b)	3012	Basic filing fee—Design	Micro	55	44
1.16(b)	3017	Basic filing fee—Design (CPA)	Micro	55	44
1.16(c)	2013	Basic filing fee—Plant	Small	110	88
1.16(c)	3013	Basic filing fee—Plant	Micro	55	44
1.16(d)	2005	Provisional application filing fee	Small	150	120
1.16(d)	3005	Provisional application filing fee	Micro	75	60
1.16(e)	2014	Basic filing fee—Reissue	Small	160	128
1.16(e)	2019	Basic filing fee—Reissue (Design CPA)	Small	160	128
1.16(e)	3014	Basic filing fee—Reissue	Micro	80	64
1.16(e)	3019	Basic filing fee—Reissue (Design CPA)	Micro	80	64
1.16(f)	2051	Surcharge—Late filing fee, search fee, examination fee, inventor's oath or declaration, or application filed without at least one claim or by reference.	Small	80	64
1.16(f)	3051	Surcharge—Late filing fee, search fee, examination fee, inventor's oath or declaration, or application filed without at least one claim or by reference.	Micro	40	32
1.16(g)	2052	Surcharge—Late provisional filing fee or cover sheet	Small	30	24
1.16(g)	3052	Surcharge—Late provisional filing fee or cover sheet	Micro	15	12
1.16(h)	2201	Each independent claim in excess of three	Small	240	192
1.16(h)	2204	Each reissue independent claim in excess of three	Small	240	192
1.16(h)	3201	Each independent claim in excess of three	Micro	120	96
1.16(h)	3204	Each reissue independent claim in excess of three	Micro	120	96
1.16(i)	2202	Each claim in excess of 20	Small	50	40
1.16(i)	2205	Each reissue claim in excess of 20	Small	50	40
1.16(i)	3202	Each claim in excess of 20	Micro	25	20
1.16(i)	3205	Each reissue claim in excess of 20	Micro	25	20
1.16(j)	2203	Multiple dependent claim	Small	430	344
1.16(j)	3203	Multiple dependent claim	Micro	215	172
1.16(k)	2111	Utility search fee	Small	350	280
1.16(k)	3111	Utility search fee	Micro	175	140
1.16(l)	2112	Design search Fee or Design CPA search fee	Small	80	64
1.16(l)	3112	Design Search Fee or Design CPA search fee	Micro	40	32
1.16(m)	2113	Plant search fee	Small	220	176
1.16(m)	3113	Plant search fee	Micro	110	88
1.16(n)	2114	Reissue search fee or Reissue (Design CPA) search fee	Small	350	280
1.16(n)	3114	Reissue search fee or Reissue (Design CPA) search fee	Micro	175	140
1.16(o)	2311	Utility examination fee	Small	400	320
1.16(o)	3311	Utility examination fee	Micro	200	160
1.16(p)	2312	Design examination fee or Design CPA examination fee	Small	320	256
1.16(p)	3312	Design examination fee or Design CPA examination fee	Micro	160	128
1.16(q)	2313	Plant examination fee	Small	330	264
1.16(q)	3313	Plant examination fee	Micro	165	132
1.16(r)	2314	Reissue examination fee or reissue (Design CPA) examination fee.	Small	1,160	928
1.16(r)	3314	Reissue examination fee or reissue (Design CPA) examination fee.	Micro	580	464

TABLE 1—CFR FEE CHANGES—Continued

CFR section	Fee code	Description	Entity type	Previous fees (dollars)	Final rule fees (dollars)
1.16(s)	2081	Utility application size fee—for each additional 50 sheets that exceeds 100 sheets.	Small	210	168
1.16(s)	2082	Design application size fee—for each additional 50 sheets that exceeds 100 sheets.	Small	210	168
1.16(s)	2083	Plant application size fee—for each additional 50 sheets that exceeds 100 sheets.	Small	210	168
1.16(s)	2084	Reissue application size fee—for each additional 50 sheets that exceeds 100 sheets.	Small	210	168
1.16(s)	2085	Provisional application size fee—for each additional 50 sheets that exceeds 100 sheets.	Small	210	168
1.16(s)	3081	Utility application size fee—for each additional 50 sheets that exceeds 100 sheets.	Micro	105	84
1.16(s)	3082	Design application size fee—for each additional 50 sheets that exceeds 100 sheets.	Micro	105	84
1.16(s)	3083	Plant application size fee—for each additional 50 sheets that exceeds 100 sheets.	Micro	105	84
1.16(s)	3084	Reissue application size fee—for each additional 50 sheets that exceeds 100 sheets.	Micro	105	84
1.16(s)	3085	Provisional application size fee—for each additional 50 sheets that exceeds 100 sheets.	Micro	105	84
1.16(u)	2054	Non-DOCX filing surcharge fee	Small	200	160
1.16(u)	3054	Non-DOCX filing surcharge fee	Micro	100	80
1.17(a)(1)	2251	Extension for response within first month	Small	110	88
1.17(a)(1)	3251	Extension for response within first month	Micro	55	44
1.17(a)(2)	2252	Extension for response within second month	Small	320	256
1.17(a)(2)	3252	Extension for response within second month	Micro	160	128
1.17(a)(3)	2253	Extension for response within third month	Small	740	592
1.17(a)(3)	3253	Extension for response within third month	Micro	370	296
1.17(a)(4)	2254	Extension for response within fourth month	Small	1,160	928
1.17(a)(4)	3254	Extension for response within fourth month	Micro	580	464
1.17(a)(5)	2255	Extension for response within fifth month	Small	1,580	1,264
1.17(a)(5)	3255	Extension for response within fifth month	Micro	790	632
1.17(c)	2817	Request for prioritized examination	Small	2,100	1,680
1.17(c)	3817	Request for prioritized examination	Micro	1,050	840
1.17(d)	2819	Correction of inventorship after first action on merits	Small	320	256
1.17(d)	3819	Correction of inventorship after first action on merits	Micro	160	128
1.17(e)(1)	2801	Request for continued examination (RCE)—1st request (see 37 CFR 1.114).	Small	680	544
1.17(e)(1)	3801	Request for continued examination (RCE)—1st request (see 37 CFR 1.114).	Micro	340	272
1.17(e)(2)	2820	Request for continued examination (RCE)—2nd and subsequent request (see 37 CFR 1.114).	Small	1,000	800
1.17(e)(2)	3820	Request for continued examination (RCE)—2nd and subsequent request (see 37 CFR 1.114).	Micro	500	400
1.17(f)	2462	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I).	Small	210	168
1.17(f)	3462	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I).	Micro	105	84
1.17(g)	2463	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II).	Small	110	88
1.17(g)	3463	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II).	Micro	55	44
1.17(h)	2464	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III).	Small	70	56
1.17(h)	3464	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III).	Micro	35	28
1.17(i)(1)	2053	Non-English translation	Small	70	56
1.17(i)(1)	2830	Processing fee, except in provisional applications	Small	70	56
1.17(i)(1)	3053	Non-English translation	Micro	35	28
1.17(i)(1)	3830	Processing fee, except in provisional applications	Micro	35	28
1.17(k)	2802	Request for expedited examination of a design application	Small	800	640
1.17(k)	3802	Request for expedited examination of a design application	Micro	400	320
1.17(m)	2453	Petition for revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, or for the delayed response by the patent owner in any reexamination proceeding.	Small	1,050	840
1.17(m)	2454	Petition for the delayed submission of a priority or benefit claim, or to restore the right of priority or benefit.	Small	1,050	840
1.17(m)	2558	Petition for the delayed payment of the fee for maintaining a patent in force.	Small	1,050	840

TABLE 1—CFR FEE CHANGES—Continued

CFR section	Fee code	Description	Entity type	Previous fees (dollars)	Final rule fees (dollars)
1.17(m)	2628	Petition for the extension of the twelve-month (six-month for designs) period for filing a subsequent application.	Small	1,050	840
1.17(m)	2784	Petition to excuse applicant's failure to act within prescribed time limits in an international design application.	Small	1,050	840
1.17(m)	3453	Petition for revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, or for the delayed response by the patent owner in any reexamination proceeding.	Micro	525	420
1.17(m)	3454	Petition for the delayed submission of a priority or benefit claim, or to restore the right of priority or benefit.	Micro	525	420
1.17(m)	3558	Petition for the delayed payment of the fee for maintaining a patent in force.	Micro	525	420
1.17(m)	3628	Petition for the extension of the twelve-month (six-month for designs) period for filing a subsequent application.	Micro	525	420
1.17(m)	3784	Petition to excuse applicant's failure to act within prescribed time limits in an international design application.	Micro	525	420
1.17(o)	2818	Document fee for third-party submissions (see 37 CFR 1.290(f))	Small	90	72
1.17(p)	2806	Submission of an Information Disclosure Statement	Small	130	104
1.17(p)	3806	Submission of an Information Disclosure Statement	Micro	65	52
1.17(r)	2809	Filing a submission after final rejection (see 37 CFR 1.129(a))	Small	440	352
1.17(r)	3809	Filing a submission after final rejection (see 37 CFR 1.129(a))	Micro	220	176
1.17(s)	2810	For each additional invention to be examined (see 37 CFR 1.129(b)).	Small	440	352
1.17(s)	3810	For each additional invention to be examined (see 37 CFR 1.129(b)).	Micro	220	176
1.17(t)	2783	Petition to convert an international design application to a design application under 35 U.S.C. chapter 16.	Small	90	72
1.17(t)	3783	Petition to convert an international design application to a design application under 35 U.S.C. chapter 16.	Micro	45	36
1.18(a)(1)	2501	Utility issue fee	Small	600	480
1.18(a)(1)	2511	Reissue issue fee	Small	600	480
1.18(a)(1)	3501	Utility issue fee	Micro	300	240
1.18(a)(1)	3511	Reissue issue fee	Micro	300	240
1.18(b)(1)	2502	Design issue fee	Small	370	296
1.18(b)(1)	3502	Design issue fee	Micro	185	148
1.18(c)(1)	2503	Plant issue fee	Small	420	336
1.18(c)(1)	3503	Plant issue fee	Micro	210	168
1.20(c)(1)	2831	Ex parte reexamination (§ 1.510(a)) Streamlined	Small	3,150	2,520
1.20(c)(1)	3831	Ex parte Reexamination (§ 1.510(a)) streamlined	Micro	1,575	1,260
1.20(c)(2)	2812	Ex parte reexamination (§ 1.510(a)) non-streamlined	Small	6,300	5,040
1.20(c)(2)	3812	Ex parte reexamination (§ 1.510(a)) non-streamlined	Micro	3,150	2,520
1.20(c)(3)	2821	Each reexamination independent claim in excess of three and also in excess of the number of such claims in the patent under reexamination.	Small	240	192
1.20(c)(3)	3821	Each reexamination independent claim in excess of three and also in excess of the number of such claims in the patent under reexamination.	Micro	120	96
1.20(c)(4)	2822	Each reexamination claim in excess of 20 and also in excess of the number of claims in the patent under reexamination.	Small	50	40
1.20(c)(4)	3822	Each reexamination claim in excess of 20 and also in excess of the number of claims in the patent under reexamination.	Micro	25	20
1.20(c)(6)	2824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d).	Small	1,020	816
1.20(c)(6)	3824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d).	Micro	510	408
1.20(e)	2551	For maintaining an original or any reissue patent, due at 3.5 years.	Small	1,000	800
1.20(e)	3551	For maintaining an original or any reissue patent, due at 3.5 years.	Micro	500	400
1.20(f)	2552	For maintaining an original or any reissue patent, due at 7.5 years.	Small	1,880	1,504
1.20(f)	3552	For maintaining an original or any reissue patent, due at 7.5 years.	Micro	940	752
1.20(g)	2553	For maintaining an original or any reissue patent, due at 11.5 years.	Small	3,850	3,080
1.20(g)	3553	For maintaining an original or any reissue patent, due at 11.5 years.	Micro	1,925	1,540
1.20(h)	2554	Surcharge—3.5 year—late payment within 6 months	Small	250	200
1.20(h)	2555	Surcharge—7.5 year—late payment within 6 months	Small	250	200
1.20(h)	2556	Surcharge—11.5 year—late payment within 6 months	Small	250	200
1.20(h)	3554	Surcharge—3.5 year—late payment within 6 months	Micro	125	100

TABLE 1—CFR FEE CHANGES—Continued

CFR section	Fee code	Description	Entity type	Previous fees (dollars)	Final rule fees (dollars)
1.20(h)	3555	Surcharge—7.5 year—late payment within 6 months	Micro	125	100
1.20(h)	3556	Surcharge—11.5 year—late payment within 6 months	Micro	125	100
1.20(k)(1)	2826	Request for supplemental examination	Small	2,310	1,848
1.20(k)(1)	3826	Request for supplemental examination	Micro	1,155	924
1.20(k)(2)	2827	Reexamination ordered as a result of supplemental examination	Small	6,350	5,080
1.20(k)(2)	3827	Reexamination ordered as a result of supplemental examination	Micro	3,175	2,540
1.20(k)(3)(i)	2828	Supplemental examination document size fee—for nonpatent document having between 21 and 50 sheets.	Small	90	72
1.20(k)(3)(i)	3828	Supplemental examination document size fee—for nonpatent document having between 21 and 50 sheets.	Micro	45	36
1.20(k)(3)(ii)	2829	Supplemental examination document size fee—for each additional 50 sheets or a fraction thereof in a nonpatent document.	Small	150	120
1.20(k)(3)(ii)	3829	Supplemental examination document size fee—for each additional 50 sheets or a fraction thereof in a nonpatent document.	Micro	75	60
1.21(o)(1)	2091	Submission of sequence listings of 300Mb to 800Mb	Small	530	424
1.21(o)(1)	3091	Submission of sequence listings of 300Mb to 800Mb	Micro	265	212
1.21(o)(2)	2092	Submission of sequence listings of more than 800Mb	Small	5,250	4,200
1.21(o)(2)	3092	Submission of sequence listings of more than 800Mb	Micro	2,625	2,100
1.445(a)(1)(i)(A)	2601	Transmittal fee	Small	130	104
1.445(a)(1)(i)(A)	3601	Transmittal fee	Micro	65	52
1.445(a)(2)(i)	2602	Search fee—regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16).	Small	1,090	872
1.445(a)(2)(i)	3602	Search fee—regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16).	Micro	545	436
1.445(a)(3)(i)	2604	Supplemental search fee when required, per additional invention	Small	1,090	872
1.445(a)(3)(i)	3604	Supplemental search fee when required, per additional invention	Micro	545	436
1.445(a)(4)	2621	Transmitting application to Intl. Bureau to act as receiving office	Small	130	104
1.445(a)(4)	3621	Transmitting application to Intl. Bureau to act as receiving office	Micro	65	52
1.445(a)(5)/ 1.482(c).	2627	Late furnishing fee for providing a sequence listing in response to an invitation under PCT Rule 13*ter*.	Small	160	128
1.445(a)(5)/ 1.482(c).	3627	Late furnishing fee for providing a sequence listing in response to an invitation under PCT Rule 13*ter*.	Micro	80	64
1.482(a)(1)(i)	2605	Preliminary examination fee—U.S. was the ISA	Small	320	256
1.482(a)(1)(i)	3605	Preliminary examination fee—U.S. was the ISA	Micro	160	128
1.482(a)(1)(ii)	2606	Preliminary examination fee—U.S. was not the ISA	Small	400	320
1.482(a)(1)(ii)	3606	Preliminary examination fee—U.S. was not the ISA	Micro	200	160
1.482(a)(2)	2607	Supplemental examination fee per additional invention	Small	320	256
1.482(a)(2)	3607	Supplemental examination fee per additional invention	Micro	160	128
1.492(a)	2631	Basic national stage fee	Small	160	128
1.492(a)	3631	Basic national stage fee	Micro	80	64
1.492(b)(2)	2641	National stage search fee—U.S. was the ISA	Small	70	56
1.492(b)(2)	3641	National stage search fee—U.S. was the ISA	Micro	35	28
1.492(b)(3)	2642	National stage search fee—search report prepared and provided to USPTO.	Small	270	216
1.492(b)(3)	3642	National stage search fee—search report prepared and provided to USPTO.	Micro	135	108
1.492(b)(4)	2632	National stage search fee—all other situations	Small	350	280
1.492(b)(4)	3632	National stage search fee—all other situations	Micro	175	140
1.492(c)(2)	2633	National stage examination fee—all other situations	Small	400	320
1.492(c)(2)	3633	National stage examination fee—all other situations	Micro	200	160
1.492(d)	2614	Each independent claim in excess of three	Small	240	192
1.492(d)	3614	Each independent claim in excess of three	Micro	120	96
1.492(e)	2615	Each claim in excess of 20	Small	50	40
1.492(e)	3615	Each claim in excess of 20	Micro	25	20
1.492(f)	2616	Multiple dependent claim	Small	430	344
1.492(f)	3616	Multiple dependent claim	Micro	215	172
1.492(h)	2617	Search fee, examination fee or oath or declaration after the date of commencement of the national stage.	Small	80	64
1.492(h)	3617	Search fee, examination fee or oath or declaration after the date of commencement of the national stage.	Micro	40	32
1.492(i)	2618	English translation after thirty months from priority date	Small	70	56
1.492(i)	3618	English translation after thirty months from priority date	Micro	35	28
1.492(j)	2681	National stage application size fee—for each additional 50 sheets that exceeds 100 sheets.	Small	210	168
1.492(j)	3681	National stage application size fee—for each additional 50 sheets that exceeds 100 sheets.	Micro	105	84
1.1031(a)	2781	Hague International design application—Transmittal Fee	Small	60	48
1.1031(a)	3781	Hague International design application—Transmittal Fee	Micro	30	24
41.20(b)(1)	2401	Notice of appeal	Small	420	336
41.20(b)(1)	3401	Notice of appeal	Micro	210	168

TABLE 1—CFR FEE CHANGES—Continued

CFR section	Fee code	Description	Entity type	Previous fees (dollars)	Final rule fees (dollars)
41.20(b)(2)(ii)	2404	Filing a brief in support of an appeal in an inter partes reexamination proceeding.	Small	1,050	840
41.20(b)(2)(ii)	3404	Filing a brief in support of an appeal in an inter partes reexamination proceeding.	Micro	525	420
41.20(b)(3)	2403	Request for oral hearing	Small	680	544
41.20(b)(3)	3403	Request for oral hearing	Micro	340	272
41.20(b)(4)	2413	Forwarding an appeal in an application or ex parte reexamination proceeding to the Board.	Small	1,180	944
41.20(b)(4)	3413	Forwarding an appeal in an application or ex parte reexamination proceeding to the Board.	Micro	590	472

Rulemaking Considerations

A. Administrative Procedure Act (APA): This final rule implements amendments enacted in section 107 of the UAIA on December 29, 2022, which amended 35 U.S.C. 41(h) and section 10(b) of the America Invents Act (AIA), Public Law 112–29, 125 Stat. 284, to require the Office to reduce patent fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents by 60% for small entities and by 80% for micro entities and to reduce the basic filing fee for nonprovisional utility applications filed electronically by 80% for small entities. The changes in this final rule simply implement the provisions of the UAIA, and involve the rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortgage Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'') (citations and internal quotation marks omitted); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals are procedural where they do not change the substantive standard for reviewing claims).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (notice-and-comment procedures are not required when an agency ''issue[s] an initial interpretive rule'' or when it amends or repeals that interpretive rule); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))).

In addition, the Office finds good cause pursuant to the authority at 5 U.S.C. 553(b)(B) and (d)(3) to dispense with prior notice and opportunity for public comment, and to publish this final rule with an immediate effective date, because such procedures are impracticable and contrary to the public interest. The discount percentages and the fees to which they are applicable are set by the terms of the UAIA, and the Office has no discretion to make changes in those areas. The UAIA amendments were effective as of the date of enactment of the statute, which is December 29, 2022. Thus, this final rule revises the patent fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents, to reflect the new discount percentages immediately. If this rulemaking were to be delayed to allow for prior notice and opportunity for public comment and a 30-day delay in effective date, USPTO's regulations would remain out of date with the current fees adjusted by statute, which would create confusion as to current fee amounts. Thus, the USPTO implements this final rule without prior notice and opportunity for comment and with immediate effect.

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order (E.O.) 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with E.O. 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of this final rule; (2) tailored this final rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under E.O. 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under E.O. 13211 (May 18, 2001) because this rulemaking is not likely to have a significant adverse effect on the supply,

distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under E.O. 13211.

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of E.O. 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under E.O. 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under E.O. 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a federal intergovernmental mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

O. Paperwork Reduction Act: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This Final Rule involves information collection requirements that are subject to review by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549). The collection of information involved in this Final Rule have been reviewed and previously approved by the OMB under control numbers: 0651–0016, 0651–0021, 0651–0024, 0651–0031, 0651–0032, 0651–0033, 0651–0059, 0651–0062, 0651–0063, 0651–0064, and 0651–0073. In addition, updates to the aforementioned information collections as a result of this Final Rule have been submitted to the OMB as non-substantive change requests.

Notwithstanding any other provision of 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 Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

P. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act 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.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the USPTO amends 37 CFR parts 1 and 41 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Effective March 22, 2023, § 1.16 is amended by revising the tables in paragraphs (a) through (s) to read as follows:

§ 1.16 National application filing, search, and examination fees.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

By a micro entity (§ 1.29)	$64.00
By a small entity (§ 1.27(a))	128.00
By a small entity (§ 1.27(a)) if the application is submitted in compliance with the USPTO patent electronic filing system (§ 1.27(b)(2))	64.00
By other than a small or micro entity	320.00

(b) * * *

TABLE 2 TO PARAGRAPH (b)

By a micro entity (§ 1.29)	$44.00
By a small entity (§ 1.27(a))	88.00
By other than a small or micro entity	220.00

(c) * * *

TABLE 3 TO PARAGRAPH (c)

By a micro entity (§ 1.29)	$44.00
By a small entity (§ 1.27(a))	88.00
By other than a small or micro entity	220.00

(d) * * *

TABLE 4 TO PARAGRAPH (d)

By a micro entity (§ 1.29)	$60.00
By a small entity (§ 1.27(a))	120.00
By other than a small or micro entity	300.00

(e) * * *

TABLE 5 TO PARAGRAPH (e)

By a micro entity (§ 1.29)	$64.00
By a small entity (§ 1.27(a))	128.00
By other than a small or micro entity	320.00

(f) * * *

TABLE 6 TO PARAGRAPH (f)

By a micro entity (§ 1.29)	$32.00
By a small entity (§ 1.27(a))	64.00

TABLE 6 TO PARAGRAPH (f)—Continued

By other than a small or micro entity	160.00

(g) * * *

TABLE 7 TO PARAGRAPH (g)

By a micro entity (§ 1.29)	$12.00
By a small entity (§ 1.27(a))	24.00
By other than a small or micro entity	60.00

(h) * * *

TABLE 8 TO PARAGRAPH (h)

By a micro entity (§ 1.29)	$96.00
By a small entity (§ 1.27(a))	192.00
By other than a small or micro entity	480.00

(i) * * *

TABLE 9 TO PARAGRAPH (i)

By a micro entity (§ 1.29)	$20.00
By a small entity (§ 1.27(a))	40.00
By other than a small or micro entity	100.00

(j) * * *

TABLE 10 TO PARAGRAPH (j)

By a micro entity (§ 1.29)	$172.00
By a small entity (§ 1.27(a))	344.00
By other than a small or micro entity	860.00

(k) * * *

TABLE 11 TO PARAGRAPH (k)

By a micro entity (§ 1.29)	$140.00
By a small entity (§ 1.27(a))	280.00
By other than a small or micro entity	700.00

(l) * * *

TABLE 12 TO PARAGRAPH (l)

By a micro entity (§ 1.29)	$32.00
By a small entity (§ 1.27(a))	64.00
By other than a small or micro entity	160.00

(m) * * *

TABLE 13 TO PARAGRAPH (m)

By a micro entity (§ 1.29)	$88.00
By a small entity (§ 1.27(a))	176.00
By other than a small or micro entity	440.00

(n) * * *

TABLE 14 TO PARAGRAPH (n)

By a micro entity (§ 1.29)	$140.00
By a small entity (§ 1.27(a))	280.00
By other than a small or micro entity	700.00

(o) * * *

TABLE 15 TO PARAGRAPH (o)

By a micro entity (§ 1.29)	$160.00
By a small entity (§ 1.27(a))	320.00
By other than a small or micro entity	800.00

(p) * * *

TABLE 16 TO PARAGRAPH (p)

By a micro entity (§ 1.29)	$128.00
By a small entity (§ 1.27(a))	256.00
By other than a small or micro entity	640.00

(q) * * *

TABLE 17 TO PARAGRAPH (q)

By a micro entity (§ 1.29)	$132.00
By a small entity (§ 1.27(a))	264.00
By other than a small or micro entity	660.00

(r) * * *

TABLE 18 TO PARAGRAPH (r)

By a micro entity (§ 1.29)	$464.00
By a small entity (§ 1.27(a))	928.00
By other than a small or micro entity	2,320.00

(s) * * *

TABLE 19 TO PARAGRAPH (s)

By a micro entity (§ 1.29)	$84.00
By a small entity (§ 1.27(a))	168.00
By other than a small or micro entity	420.00

* * * * *

■ 3. Effective April 3, 2023, § 1.16 is further amended by revising the table in paragraph (u), as added Aug. 3, 2020, at 85 FR 46985, effective Jan. 1, 2022, and delayed until Jan 1, 2023, at 86 FR 66193, Nov. 22, 2021, and further delayed until Apr. 3, 2023, at 87 FR 80073, Dec. 29, 2022, to read as follows:

§ 1.16 National application filing, search, and examination fees.

* * * * *

(u) * * *

TABLE 21 TO PARAGRAPH (u)

By a micro entity (§ 1.29)	$80.00
By a small entity (§ 1.27(a))	160.00

TABLE 21 TO PARAGRAPH (u)—Continued

By a small entity (§ 1.27(a)) if the application is submitted in compliance with the USPTO patent electronic filing system (§ 1.27(b)(2))	160.00
By other than a small or micro entity	400.00

■ 4. Effective March 22, 2023, § 1.17 is amended by revising the tables in paragraphs (a)(1) through (5), (c), (d), (e)(1) and (2), (f) through (h), (i)(1), (k), (m), (o), (p), and (r) through (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

By a micro entity (§ 1.29)	$44.00
By a small entity (§ 1.27(a))	88.00
By other than a small or micro entity	220.00

(2) * * *

TABLE 2 TO PARAGRAPH (a)(2)

By a micro entity (§ 1.29)	$128.00
By a small entity (§ 1.27(a))	256.00
By other than a small or micro entity	640.00

(3) * * *

TABLE 3 TO PARAGRAPH (a)(3)

By a micro entity (§ 1.29)	$296.00
By a small entity (§ 1.27(a))	592.00
By other than a small or micro entity	1,480.00

(4) * * *

TABLE 4 TO PARAGRAPH (a)(4)

By a micro entity (§ 1.29)	$464.00
By a small entity (§ 1.27(a))	928.00
By other than a small or micro entity	2,320.00

(5) * * *

TABLE 5 TO PARAGRAPH (a)(5)

By a micro entity (§ 1.29)	$632.00
By a small entity (§ 1.27(a))	1,264.00
By other than a small or micro entity	3,160.00

* * * * *

(c) * * *

TABLE 6 TO PARAGRAPH (c)

By a micro entity (§ 1.29)	$840.00
By a small entity (§ 1.27(a))	1,680.00
By other than a small or micro entity	4,200.00

(d) * * *

TABLE 7 TO PARAGRAPH (d)

By a micro entity (§ 1.29)	$128.00
By a small entity (§ 1.27(a))	256.00
By other than a small or micro entity	640.00

(e) * * *

(1) * * *

TABLE 8 TO PARAGRAPH (e)(1)

By a micro entity (§ 1.29)	$272.00
By a small entity (§ 1.27(a))	544.00
By other than a small or micro entity	1,360.00

(2) * * *

TABLE 9 TO PARAGRAPH (e)(2)

By a micro entity (§ 1.29)	$400.00
By a small entity (§ 1.27(a))	800.00
By other than a small or micro entity	2,000.00

(f) * * *

TABLE 10 TO PARAGRAPH (f)

By a micro entity (§ 1.29)	$84.00
By a small entity (§ 1.27(a))	168.00
By other than a small or micro entity	420.00

§ 1.36(a)—for revocation of a power of attorney by fewer than all of the applicants.

§ 1.53(e)—to accord a filing date.

§ 1.182—for a decision on a question not specifically provided for in an application for a patent.

§ 1.183—to suspend the rules in an application for a patent.

§ 1.741(b)—to accord a filing date to an application under § 1.740 for an extension of a patent term.

§ 1.1023—to review the filing date of an international design application.

(g) * * *

TABLE 11 TO PARAGRAPH (g)

By a micro entity (§ 1.29)	$44.00
By a small entity (§ 1.27(a))	88.00
By other than a small or micro entity	220.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.46—for filing an application on behalf of an inventor by a person who otherwise shows sufficient proprietary interest in the matter.

§ 1.55(f)—for filing a belated certified copy of a foreign application.

§ 1.55(g)—for filing a belated certified copy of a foreign application.

§ 1.57(a)—for filing a belated certified copy of a foreign application.

§ 1.59—for expungement of information.

§ 1.103(a)—to suspend action in an application.

§ 1.136(b)—for review of a request for an extension of time when the provisions of § 1.136(a) are not available.

§ 1.377—for review of a decision refusing to accept and record payment of a maintenance fee filed prior to the expiration of a patent.

§ 1.550(c)—for patent owner requests for an extension of time in ex parte reexamination proceedings.

§ 1.956—for patent owner requests for an extension of time in inter partes reexamination proceedings.

§ 5.12 of this chapter—for expedited handling of a foreign filing license.

§ 5.15 of this chapter—for changing the scope of a license.

§ 5.25 of this chapter—for a retroactive license.

(h) * * *

TABLE 12 TO PARAGRAPH (h)

By a micro entity (§ 1.29)	$28.00
By a small entity (§ 1.27(a))	56.00
By other than a small or micro entity	140.00

§ 1.84—for accepting color drawings or photographs.

§ 1.91—for entry of a model or exhibit.

§ 1.102(d)—to make an application special.

§ 1.138(c)—to expressly abandon an application to avoid publication.

§ 1.313—to withdraw an application from issue.

§ 1.314—to defer issuance of a patent.

(i) * * *

(1) * * *

TABLE 13 TO PARAGRAPH (i)(1)

By a micro entity (§ 1.29)	$28.00
By a small entity (§ 1.27(a))	56.00
By other than a small or micro entity	140.00

§ 1.28(c)(3)—for processing a non-itemized fee deficiency based on an error in small entity status.

§ 1.29(k)(3)—for processing a non-itemized fee deficiency based on an error in micro entity status.

§ 1.41(b)—for supplying the name or names of the inventor or joint inventors in an application without either an application data sheet or the inventor's oath or declaration, except in provisional applications.

§ 1.48—for correcting inventorship, except in provisional applications.

§ 1.52(d)—for processing a nonprovisional application filed with a specification in a language other than English.

§ 1.53(c)(3)—to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).

§ 1.71(g)(2)—for processing a belated amendment under § 1.71(g).

§ 1.102(e)—for requesting prioritized examination of an application.

§ 1.103(b)—for requesting limited suspension of action, continued prosecution application for a design patent (§ 1.53(d)).

§ 1.103(c)—for requesting limited suspension of action, request for continued examination (§ 1.114).

§ 1.103(d)—for requesting deferred examination of an application.

§ 1.291(c)(5)—for processing a second or subsequent protest by the same real party in interest.

§ 3.81—for a patent to issue to assignee, assignment submitted after payment of the issue fee.

* * * * *

(k) * * *

TABLE 15 TO PARAGRAPH (k)

By a micro entity (§ 1.29)	$320.00
By a small entity (§ 1.27(a))	640.00
By other than a small or micro entity	1,600.00

* * * * *

(m) * * *

TABLE 16 TO PARAGRAPH (m)

By a micro entity (§ 1.29)	$420.00
By a small entity (§ 1.27(a))	840.00
By other than a small or micro entity	2,100.00

* * * * *

(o) * * *

TABLE 17 TO PARAGRAPH (o)

By a small entity (§ 1.27(a)) or micro entity (§ 1.29)	$72.00
By other than a small or micro entity	180.00

(p) * * *

TABLE 18 TO PARAGRAPH (p)

By a micro entity (§ 1.29)	$52.00
By a small entity (§ 1.27(a))	104.00

TABLE 18 TO PARAGRAPH (p)—Continued

By other than a small or micro entity	260.00

* * * * *

(r) * * *

TABLE 19 TO PARAGRAPH (r)

By a micro entity (§ 1.29)	$176.00
By a small entity (§ 1.27(a))	352.00
By other than a small or micro entity	880.00

(s) * * *

TABLE 20 TO PARAGRAPH (s)

By a micro entity (§ 1.29)	$176.00
By a small entity (§ 1.27(a))	352.00
By other than a small or micro entity	880.00

(t) * * *

TABLE 21 TO PARAGRAPH (t)

By a micro entity (§ 1.29)	$36.00
By a small entity (§ 1.27(a))	72.00
By other than a small or micro entity	180.00

■ 5. Effective March 22, 2023 § 1.18 is amended by revising the tables in paragraphs (a), (b)(1), and (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

By a micro entity (§ 1.29)	$240.00
By a small entity (§ 1.27(a))	480.00
By other than a small or micro entity	1,200.00

(b)(1) * * *

TABLE 2 TO PARAGRAPH (b)(1)

By a micro entity (§ 1.29)	$148.00
By a small entity (§ 1.27(a))	296.00
By other than a small or micro entity	740.00

* * * * *

(c) * * *

TABLE 3 TO PARAGRAPH (c)

By a micro entity (§ 1.29)	$168.00
By a small entity (§ 1.27(a))	336.00
By other than a small or micro entity	840.00

* * * * *

■ 6. Effective March 22, 2023, § 1.20 is amended by revising the tables in paragraphs (c)(1)(i), (c)(2) through (4), (c)(6) and (7), (e) through (h), (k)(1) and (2), and (k)(3)(i) and (ii) to read as follows:

§ 1.20 Post-issuance fees.

* * * * *

(c) * * *

(1)(i) * * *

TABLE 1 TO PARAGRAPH (c)(1)(i)

By a micro entity (§ 1.29)	$1,260.00
By a small entity (§ 1.27(a))	2,520.00
By other than a small or micro entity	6,300.00

* * * * *

(2) * * *

TABLE 2 TO PARAGRAPH (c)(2)

By a micro entity (§ 1.29)	$2,520.00
By a small entity (§ 1.27(a))	5,040.00
By other than a small or micro entity	12,600.00

(3) * * *

TABLE 3 TO PARAGRAPH (c)(3)

By a micro entity (§ 1.29)	$96.00
By a small entity (§ 1.27(a))	192.00
By other than a small or micro entity	480.00

(4) * * *

TABLE 4 TO PARAGRAPH (c)(4)

By a micro entity (§ 1.29)	$20.00
By a small entity (§ 1.27(a))	40.00
By other than a small or micro entity	100.00

* * * * *

(6) * * *

TABLE 5 TO PARAGRAPH (c)(6)

By a micro entity (§ 1.29)	$408.00
By a small entity (§ 1.27(a))	816.00
By other than a small or micro entity	2,040.00

(7) * * *

TABLE 6 TO PARAGRAPH (c)(7)

By a micro entity (§ 1.29)	$756.00
By a small entity (§ 1.27(a))	1,512.00
By other than a small or micro entity	3,780.00

* * * * *

(e) * * *

TABLE 7 TO PARAGRAPH (e)

By a micro entity (§ 1.29)	$400.00
By a small entity (§ 1.27(a))	800.00
By other than a small or micro entity	2,000.00

(f) * * *

TABLE 8 TO PARAGRAPH (f)

By a micro entity (§ 1.29)	$752.00
By a small entity (§ 1.27(a))	1,504.00
By other than a small or micro entity	3,760.00

(g) * * *

TABLE 9 TO PARAGRAPH (g)

By a micro entity (§ 1.29)	$1,540.00
By a small entity (§ 1.27(a))	3,080.00
By other than a small or micro entity	7,700.00

(h) * * *

TABLE 10 TO PARAGRAPH (h)

By a micro entity (§ 1.29)	$100.00
By a small entity (§ 1.27(a))	200.00
By other than a small or micro entity	$500.00

* * * * *

(k) * * *

(1) * * *

TABLE 12 TO PARAGRAPH (k)(1)

By a micro entity (§ 1.29)	$924.00
By a small entity (§ 1.27(a))	1,848.00
By other than a small or micro entity	4,620.00

(2) * * *

TABLE 13 TO PARAGRAPH (k)(2)

By a micro entity (§ 1.29)	$2,540.00
By a small entity (§ 1.27(a))	5,080.00
By other than a small or micro entity	12,700.00

(3) * * *

(i) * * *

TABLE 14 TO PARAGRAPH (k)(3)(i)

By a micro entity (§ 1.29)	$36.00
By a small entity (§ 1.27(a))	72.00
By other than a small or micro entity	180.00

(ii) * * *

TABLE 15 TO PARAGRAPH (k)(3)(ii)

By a micro entity (§ 1.29)	$60.00
By a small entity (§ 1.27(a))	120.00

TABLE 15 TO PARAGRAPH (k)(3)(ii)—Continued

By other than a small or micro entity	300.00

7. Effective March 22, 2023, § 1.21 is amended by revising the tables in paragraphs (o)(1) and (2) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(o) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (o)(1)

By a micro entity (§ 1.29)	$212.00
By a small entity (§ 1.27(a))	424.00
By other than a small or micro entity	1,060.00

(2) * * *

TABLE 2 TO PARAGRAPH (o)(2)

By a micro entity (§ 1.29)	$2,100.00
By a small entity (§ 1.27(a))	4,200.00
By other than a small or micro entity	10,500.00

* * * * *

■ 8. Effective March 22, 2023, § 1.445 is amended by:

■ a. Redesignating paragraphs (a)(1)(i)(A) through (C), as paragraphs (a)(1)(i)(B) through (D);

■ b. Adding new paragraph (a)(1)(i)(A);

■ c. Revising newly redesignated paragraph (a)(1)(i)(B) introductory text and table heading;

■ d. Revising the table heading in newly redesignated paragraph (a)(1)(i)(C);

■ e. Revising the table heading in paragraph (a)(1)(ii);

■ f. Redesignating paragraphs (a)(2)(i) through (iii) as paragraphs (a)(2)(ii) through (iv);

■ g. Adding new paragraph (a)(2)(i);

■ h. Revising newly redesignated paragraph (a)(2)(ii) introductory text and table heading;

■ i. Revising the table heading in newly redesignated paragraph (a)(2)(iii);

■ j. Redesignating paragraphs (a)(3)(i) through (iii) as paragraphs (a)(3)(ii) through (iv);

■ k. Adding new paragraph (a)(3)(i);

■ l. Revising newly redesignated paragraph (a)(3)(ii) introductory text and table heading;

■ m. Revising the table heading in newly redesignated paragraph (a)(3)(iii); and

■ n. Revising the table in paragraph (a)(5).

The revisions and additions read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(1) * * *

(i) * * *

(A) For an international application having a receipt date that is on or after December 29, 2022:

TABLE 1 TO PARAGRAPH (a)(1)(i)(A)

By a micro entity (§ 1.29)	$52.00
By a small entity (§ 1.27(a))	104.00
By other than a small or micro entity	260.00

(B) For an international application having a receipt date that is on or after October 2, 2020 and before December 29, 2022:

TABLE 2 TO PARAGRAPH (a)(1)(i)(B)

* * * *

(C) * * *

TABLE 2 TO PARAGRAPH (a)(1)(i)(B)

* * * *

TABLE 3 TO PARAGRAPH (a)(1)(i)(C)

* * * *

(ii) * * *

TABLE 4 TO PARAGRAPH (a)(1)(i)(B)

* * * *

(2) * * *

(i) For an international application having a receipt date that is on or after April 1, 2023:

TABLE 5 TO PARAGRAPH (a)(2)(i)

By a micro entity (§ 1.29)	$436.00
By a small entity (§ 1.27(a))	872.00
By other than a small or micro entity	2,180.00

(ii) For an international application having a receipt date that is on or after October 2, 2020, and before April 1, 2023:

TABLE 6 TO PARAGRAPH (a)(2)(ii)

* * * * *

(iii) * * *

TABLE 7 TO PARAGRAPH (a)(2)(iii)

* * * * *

(3) * * *

(i) For an international application having a receipt date that is on or after April 1, 2023:

TABLE 8 TO PARAGRAPH (a)(3)(i)

By a micro entity (§ 1.29)	$436.00
By a small entity (§ 1.27(a))	872.00
By other than a small or micro entity	2,180.00

(ii) For an international application having a receipt date that is on or after October 2, 2020 and before April 1, 2023:

TABLE 9 TO PARAGRAPH (a)(3)(ii)

* * * * *

(iii) * * *

TABLE 10 TO PARAGRAPH (a)(3)(iii)

* * * * *

(5) * * *

TABLE 11 TO PARAGRAPH (a)(5)

By a micro entity (§ 1.29)	$64.00
By a small entity (§ 1.27(a))	128.00
By other than a small or micro entity	320.00

* * * * *

■ 9. Effective March 22, 2023, § 1.482 is amended by revising the tables in paragraphs (a)(1)(i) and (ii), (a)(2), and (c) to read as follows:

§ 1.482 International preliminary examination and processing fees.

(a) * * *

(1) * * *

(i) * * *

TABLE 1 TO PARAGRAPH (a)(1)(i)

By a micro entity (§ 1.29)	$128.00
By a small entity (§ 1.27(a))	256.00
By other than a small or micro entity	640.00

(ii) * * *

TABLE 2 TO PARAGRAPH (a)(1)(ii)

By a micro entity (§ 1.29)	$160.00
By a small entity (§ 1.27(a))	320.00
By other than a small or micro entity	800.00

(2) * * *

TABLE 3 TO PARAGRAPH (a)(2)

By a micro entity (§ 1.29)	$128.00
By a small entity (§ 1.27(a))	256.00
By other than a small or micro entity	640.00

* * * * *

(c) * * *

TABLE 4 TO PARAGRAPH (c)

By a micro entity (§ 1.29)	$64.00
By a small entity (§ 1.27(a))	128.00
By other than a small or micro entity	320.00

10. Effective March 22, 2023, § 1.492 is amended by revising the tables in paragraphs (a), (b)(2) through (4), (c)(2), (d) through (f), and (h) through (j) to read as follows.

§ 1.492 National stage fees.

* * * * *

(a) * * *

TABLE 1 TO PARAGRAPH (a)

By a micro entity (§ 1.29)	$64.00
By a small entity (§ 1.27(a))	128.00
By other than a small or micro entity	320.00

(b) * * *

(2) * * *

TABLE 3 TO PARAGRAPH (b)(2)

By a micro entity (§ 1.29)	$28.00
By a small entity (§ 1.27(a))	56.00
By other than a small or micro entity	140.00

(3) * * *

TABLE 4 TO PARAGRAPH (b)(3)

By a micro entity (§ 1.29)	$108.00
By a small entity (§ 1.27(a))	216.00
By other than a small or micro entity	540.00

(4) * * *

TABLE 5 TO PARAGRAPH (b)(4)

By a micro entity (§ 1.29)	$140.00
By a small entity (§ 1.27(a))	280.00
By other than a small or micro entity	700.00

(c) * * *

(2) * * *

TABLE 7 TO PARAGRAPH (c)(2)

By a micro entity (§ 1.29)	$160.00
By a small entity (§ 1.27(a))	320.00

TABLE 7 TO PARAGRAPH (c)(2)—Continued

By other than a small or micro entity	800.00

(d) * * *

TABLE 8 TO PARAGRAPH (d)

By a micro entity (§ 1.29)	$96.00
By a small entity (§ 1.27(a))	192.00
By other than a small or micro entity	480.00

(e) * * *

TABLE 9 TO PARAGRAPH (e)

By a micro entity (§ 1.29)	$20.00
By a small entity (§ 1.27(a))	40.00
By other than a small or micro entity	100.00

(f) * * *

TABLE 10 TO PARAGRAPH (f)

By a micro entity (§ 1.29)	$172.00
By a small entity (§ 1.27(a))	344.00
By other than a small or micro entity	860.00

* * * * *

(h) * * *

TABLE 11 TO PARAGRAPH (h)

By a micro entity (§ 1.29)	$32.00
By a small entity (§ 1.27(a))	64.00
By other than a small or micro entity	160.00

(i) * * *

TABLE 12 TO PARAGRAPH (i)

By a micro entity (§ 1.29)	$28.00
By a small entity (§ 1.27(a))	56.00
By other than a small or micro entity	140.00

(j) * * *

TABLE 13 TO PARAGRAPH (j)

By a micro entity (§ 1.29)	$84.00
By a small entity (§ 1.27(a))	168.00
By other than a small or micro entity	420.00

■ 11. Effective March 22, 2023, § 1.1031 is amended by revising the table in paragraph (a) to read as follows:

§ 1.1031 International design application fees.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

By a micro entity (§ 1.29)	$24.00
By a small entity (§ 1.27(a))	48.00
By other than a small or micro entity	120.00

* * * * *

PART 41—PRACTICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

■ 12. The authority citation for 37 CFR part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135, and Pub. L. 112–29.

■ 13. Effective March 22, 2023, § 41.20 is amended by revising the tables in paragraphs (b)(1), (b)(2)(ii), and (b)(3) and (4) to read as follows:

§ 41.20 Fees.

* * * * *

(b) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (b)(1)

By a micro entity (§ 1.29)	$168.00
By a small entity (§ 1.27(a))	336.00
By other than a small or micro entity	840.00

(2) * * *

(ii) * * *

TABLE 2 TO PARAGRAPH (b)(2)(ii)

By a micro entity (§ 1.29)	$420.00
By a small entity (§ 1.27(a))	840.00
By other than a small or micro entity	2,100.00

(3) * * *

TABLE 3 TO PARAGRAPH (b)(3)

By a micro entity (§ 1.29)	$272.00
By a small entity (§ 1.27(a))	544.00
By other than a small or micro entity	1,360.00

(4) * * *

TABLE 4 TO PARAGRAPH (b)(4)

By a micro entity (§ 1.29)	$472.00
By a small entity (§ 1.27(a))	944.00
By other than a small or micro entity	2,360.00

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–05382 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2022–0721, FRL–10452–02–R10]

Air Plan Approval; AK; Adoption and Permitting Rule Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Alaska State Implementation Plan submitted on May 16, 2022, and August 11, 2022. The revisions update Alaska's adoption by reference date for Federal regulations relied upon for implementation of the air program, including permitting requirements and air pollution test methods. The revisions also add procedures for electronic submission of documents for air permits and other authorizations, update air permitting and emission fees, add additional clarifying language to the fee provisions, and specify emissions inventory reporting requirements. The EPA has determined that the submitted revisions are consistent with Clean Air Act requirements.

DATES: This final rule is effective April 21, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2022–0721. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle, WA 98101, at (206) 553–6357, or *hunt.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' is used, it is intended to refer to the EPA.

Table of Contents

I. Background
II. Final Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. Background

Each state has a SIP containing the control measures and strategies to attain and maintain the national ambient air quality standards (NAAQS). Alaska establishes state air quality regulations in Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50) and submits these regulations for EPA approval and incorporation by reference into the Alaska SIP in the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart C.

On May 16, 2022, and August 11, 2022, Alaska submitted revisions to the SIP and the EPA proposed to approve the changes on January 18, 2023 (88 FR 2873).[1] The reasons for approval are included in the proposed action and will not be restated here. The public comment period for the proposed action closed on February 17, 2023, and we received one comment in support of the action. Therefore, we are finalizing the action as proposed.

II. Final Action

The EPA is approving, and incorporating by reference, certain revisions to the Alaska SIP, submitted on May 16, 2022, and August 11, 2022, as being consistent with Clean Air Act section 110 and part C and D requirements for the permitting of major stationary sources. Upon the effective date of this final action, the Alaska SIP will include the following regulations:

- 18 AAC 50.035 Documents, Procedures and Methods Adopted by Reference, except (a)(6), (a)(9), and (b)(4), state effective April 16, 2022, which adopts by reference certain Federal test procedures and methods for determining compliance with the NAAQS;
- 18 AAC 50.040 Federal Standards Adopted by Reference, except (a), (b), (c), (d), (e), (g), (j) and (k), state effective April 16, 2022, which adopts by reference certain Federal regulations for the permitting of new or modified major stationary sources;
- 18 AAC 50.270 Electronic Submission Requirements, state effective September 7, 2022, which establishes requirements and procedures for the electronic submission of permitting forms and other documents;
- 18 AAC 50.275 Consistency of Reporting Methodologies, state effective September 7, 2022, requiring consistent methodology in reporting air emissions;
- 18 AAC 50.400 Permit Administration Fees, except (a), (b), (c), and (i), state effective September 7, 2022, which establishes permit administration fees, compliance fees, and air quality emission fees.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[2]

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[1] Alaska's May 16, 2022, submittal also included revisions regarding ice fog and sulfur dioxide special protection areas, which are outside the scope of this action and will be addressed in a separate, future rulemaking.

[2] 62 FR 27968 (May 22, 1997).

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The air agency did not evaluate environmental justice considerations as part of its SIP submittal; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of this action, it is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: March 13, 2023.

Casey Sixkiller,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart C—Alaska

■ 2. In § 52.70, paragraph (c), Table 1 is amended by:

■ a. Revising the entries for ''18 AAC 50.035'', and ''18 AAC 50.040'';

■ b. Adding under the table heading ''18 AAC 50—Article 2. Program Administration'' entries for ''18 AAC 50.270'' and ''18 AAC 50.275'' immediately after the entry for ''18 AAC 50.260''; and

■ c. Revising the entry for ''18 AAC 50.400''.

The revisions and additions read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED ALASKA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50—Air Quality Control (18 AAC 50) 18 AAC 50—Article 1. Ambient Air Quality Management				
*	*	*	*	*
18 AAC 50.035	Documents, Procedures, and Methods Adopted by Reference.	4/16/2022	3/22/2023, [INSERT **FEDERAL REGISTER** CITATION].	Except (a)(6), (a)(9), and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference	4/16/2022	3/22/2023, [INSERT **FEDERAL REGISTER** CITATION].	Except (a), (b), (c), (d), (e), (g), (j) and (k).

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED ALASKA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
18 AAC 50—Article 2. Program Administration				
*	*	*	*	*
18 AAC 50.270	Electronic Submission Requirements	9/7/2022	3/22/2023, [INSERT **FEDERAL REGISTER** CITATION].	
18 AAC 50.275	Consistency of Reporting Methodologies	9/7/2022	3/22/2023, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*
18 AAC 50—Article 4. User Fees				
18 AAC 50.400	Permit Administration Fees	9/7/2022	3/22/2023, [INSERT **FEDERAL REGISTER** CITATION].	Except (a), (b), (c), and (i).
*	*	*	*	*

* * * * *

[FR Doc. 2023–05461 Filed 3–21–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2021–0640; FRL–10117–02–R5]

Air Plan Approval; Indiana; Revisions to Particulate Matter Rules; Vertellus

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Indiana particulate matter State Implementation Plan (SIP) that Indiana submitted to EPA on September 16, 2021, for the Vertellus Agriculture and Nutrition Specialties, LLC (Vertellus) facility located in Indianapolis, Marion County. Indiana requested revisions to incorporate site-specific updates to the particulate matter emission limits for Vertellus. The updates reflect revised emission rates for particulate matter resulting from process changes related to control strategies for other pollutants. The SIP submission request also removes requirements that applied to units no longer in operation and updates language to reflect a switch from petroleum oil to natural gas for certain units. These changes represent a decrease in overall particulate matter emissions.

DATES: This final rule is effective on April 21, 2023.

ADDRESSES: EPA has established a docket for this action under Docket ID EPA–R05–OAR–2021–0640. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Alisa Liu, Environmental Engineer, at (312) 353–3196 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Alisa Liu, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–3193, *liu.alisa@epa.gov.*

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

I. What is being addressed in this document?

This rule takes final action on the September 16, 2021, request from the Indiana Department of Environmental Management (IDEM) to incorporate revisions to Indiana's particulate matter rules contained in Indiana Administrative Code (IAC), Title 326, Article 6.5, Rule 6. Marion County, ''Vertellus Agriculture & Nutrition Specialties LLC'' (326 IAC 6.5–6–31), which became effective on September 19, 2021. (Indiana Rule LSA #19–82). As requested by Vertellus, IDEM's revisions changed the particulate matter emission limits on several units where Vertellus made process and fuel changes to comply with the revised SO_2 emission limits. Additionally, the revisions removed limits and references to units at the facility that are no longer operating or were demolished. The revisions at 326 IAC 6.5–6–31 also updated existing language and added new language related to the types of fuel burned in certain units. An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM), dated September 30, 2022 (87 FR 59370), and will not be restated here.

II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on October 31, 2022. We received comments from two individuals during the comment period. These comments are in the rulemaking docket.

Comments from one individual were supportive of EPA's action but requested clarification. Those comments are summarized and addressed below.

Comment: The commenter requested clarification regarding the reductions in allowable particulate matter emissions cited in the NPRM, including the years referenced and whether the reductions were voluntary or required.

Response: As explained in the NPRM, the particulate matter limits currently in the SIP were established as part of the attainment demonstration for the Indianapolis, Indiana 2010 sulfur dioxide (SO_2) nonattainment area. IDEM's revisions changed the particulate matter emission limits on several units where Vertellus made process and fuel changes to comply with revised SO_2 limits relied upon in the attainment demonstration. IDEM's January 4, 2022, technical support document (TSD) quantified reductions in particulate matter emissions based on a comparison between the emission rates in tons per year (tpy) allowed under 326 IAC 6.5–6–31 before and after Indiana adopted the revisions, which became effective on September 19, 2021. Under revised 326 IAC 6.5–6–31, the allowable particulate matter emission rates for four units increased by a total of 0.7 tpy, while the allowable particulate matter emission rates for 11 units decreased by a total of 14.8 tpy. Overall, the revisions result in a decrease of allowable particulate matter emissions by 14.1 tpy.

Comment: The commenter requested EPA identify the other five sources of SO_2 in Marion County besides Vertellus that were included in the attainment demonstration and technical support document of IDEM's attainment plan for the 2010 SO_2 NAAQS, which was submitted on October 2, 2015.[1] The commenter asked how the total emissions and emission limits of the other five sources compare to those of Vertellus.

Response: The six sources of SO_2 included in the 2015 Marion County 2010 SO_2 attainment demonstration and technical support document were Belmont Advanced Wastewater Treatment Plant (formerly Indianapolis Sludge Incinerator), Citizens Thermal (formerly Indianapolis Power & Light Company (IPL) Perry K Steam Plant), IPL—Harding Street Generating Station, Quemetco, Rolls Royce Corporation (formerly Allison Gas Turbine Plant 5 and Plant 8), and Vertellus (formerly Reilly Industries and Reilly Tar and Chemical).

The particulate matter and SO_2 limitations for the six sources under 326 IAC 6.5–6 and 326 IAC 7–4.2.1, respectively, are included in the SIP at 40 CFR 52.770(c). For Vertellus, the revised particulate matter total allowable annual emissions and rates for specified processes detailed in IDEM's January 4, 2022, TSD are 23.9 tpy and 0.011 to 0.150 lbs/million BTU (MMBtu). In comparison, the particulate matter total allowable annual emissions and rates for the other five sources are 144.1 tpy and 0.030 grains/dry standard cubic foot (dscf) for Belmont Advanced Wastewater Treatment Plant, 484.4 tpy and 0.015 to 0.175 lb/MMBtu for Citizens Thermal Perry K Steam Plant, 1,000.0 tpy and 0.015 to 0.135 lb/MMBtu for IPL—Harding Street Generating Station, 5.8 tpy and 0.016 grains/dscf for Quemetco, and 130 tpy and 0.15 lbs/MMBtu for Rolls Royce Corporation.

Comments from a second individual raised issues not addressed in EPA's proposed rulemaking, and that are neither germane nor relevant to this action. Moreover, none of the comments address a specific regulation or provision in question or recommend a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

III. What action is EPA taking?

EPA is approving Indiana's September 16, 2021, request to revise its particulate matter SIP because the revised rule at 326 IAC 6.5–6–31 applicable to Vertellus strengthens the SIP by reducing allowable particulate matter emissions.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in section I of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2]

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

[1] August 2015, ''1-Hour Sulfur Dioxide Attainment Demonstration and Technical Support Document for Central, West Central, and Southwest Indiana Nonattainment Areas''. Prepared by Indiana Department of Environmental Management, Office of Air Quality. EPA–R05–OAR–2015–0700–0003.

[2] 62 FR 27968 (May 22, 1997).

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

IDEM did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 9, 2023.

Debra Shore,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

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

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

■ 2. In § 52.770, the table in paragraph (c) is amended by revising the entry ''6.5–6–31'' under ''Article 6.5. Particulate Matter Limitations Except for Lake County'', ''Rule 6. Marion County'', to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
*	*	*	*	*
Article 6.5. Particulate Matter Limitations Except for Lake County				
*	*	*	*	*
Rule 6. Marion County				
*	*	*	*	*
6.5–6–31	Vertellus Agriculture & Nutrition Specialties LLC.	9/19/2021	3/22/2023, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*

* * * * *

[FR Doc. 2023–05282 Filed 3–21–23; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 88, No. 55
Wednesday, March 22, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2022–0109]

RIN 3150–AK–86

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Cask System, Certificate of Compliance No. 1014, Renewal of Initial Certificate and Amendment Nos. 1 Through 15

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On February 13, 2023, the U.S. Nuclear Regulatory Commission (NRC) provided an opportunity for public comment on a proposed rule to revise the Holtec International HI–STORM 100 listing within the ''List of approved spent fuel storage casks'' to renew the initial certificate (Amendment No. 0) and Amendment Nos. 1 through 15 to Certificate of Compliance No. 1014. The NRC published the companion proposed rule concurrently with a direct final rule. The renewal of the initial certificate and Amendment Nos. 1 through 15 would revise the certificate of compliance's conditions and technical specifications to address aging management activities related to the structures, systems, and components important to safety of the dry storage system to ensure that these will maintain their intended functions during the period of extended storage operations. The public comment period closed on March 15, 2023. The NRC is reopening the public comment period to allow additional time for members of the public to develop and submit comments.

DATES: The comment period for the document published on February 13, 2023 (88 FR 9195) has been reopened. Comments should be filed no later than April 14, 2023. Comments received after this date will be considered, if it is practical to do so, but the Commission is only able to ensure consideration of comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2022–0109 in your comment submission. The NRC requests that you submit comments through the Federal rulemaking website at *https://www.regulations.gov*. If your material cannot be submitted using *https://www.regulations.gov,* call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kristina Banovac, telephone: 301–415–7116, email: *Kristina.Banovac@nrc.gov* and James Firth, telephone: 301–415–6628, email: *James.Firth@nrc.gov*. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0109 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0109.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking Website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0109 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On February 13, 2023, the NRC provided opportunity for public comment on a proposed rule to revise the Holtec International HI–STORM 100 listing within the ''List of approved spent fuel storage casks'' to renew the initial certificate (Amendment No. 0) and Amendment Nos. 1 through 15 to Certificate of Compliance No. 1014 (88 FR 9195). The NRC published the companion proposed rule concurrently with a direct final rule (88 FR 9106; February 13, 2023). The renewal of the initial certificate and Amendment Nos. 1 through 15 would revise the certificate of compliance's conditions and technical specifications to address aging management activities related to the structures, systems, and components important to safety of the dry storage system to ensure that these will maintain their intended functions during the period of extended storage operations.

The proposed revisions relate to the renewal of the certificates of compliance to allow for continued storage of spent fuel under title 10 of the *Code of Federal Regulations* part 72. These revisions are specifically discussed in Chapter 4 of the Preliminary Safety Evaluation Report (ADAMS Accession No. ML22098A303). The Proposed Certificates of Compliance and Proposed Technical Specifications documents referenced in the proposed rule contain the revised conditions and specifications discussed in the Preliminary Safety Evaluation Report. The proposed aging management programs and the proposed changes to the final safety analysis report are located in the Certificate of Compliance Renewal Application (ADAMS Accession No. ML21113A203), in Appendix A and Appendix D, respectively. Section IV (''Discussion of Changes'') in the direct final rule also describes the changes in the proposed renewal of Certificate of Compliance No. 1014. The proposed renewal only applies to the storage of spent fuel in an independent spent fuel storage installation at power reactor sites under a general license pursuant to the requirements of 10 CFR part 72; it does not address or apply to transportation of the HI–STORM 100 Cask System. Transport of the HI–STORM 100 Cask System would be subject to the separate requirements of 10 CFR part 71.

The public comment period closed on March 15, 2023. The NRC received two requests to extend the comment period for the proposed rule and the concurrent direct final rule. The NRC is reopening the public comment period to allow additional time for members of the public to develop and submit comments. The comment period is reopened and now closes on April 14, 2023, which is 60 days after the initial opening of the public comment period.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2022–0109. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2022–0109); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

Dated: March 16, 2023.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–05831 Filed 3–21–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[NRC–2022–0157]

Draft Regulatory Guide: Perimeter Intrusion Alarm Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed guide; extension of comment period.

SUMMARY: On February 21, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on draft regulatory guide (DG), DG–5065, ''Perimeter Intrusion Alarm Systems.'' The public comment period was originally scheduled to close on March 23, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the document published on February 21, 2023 (88 FR 10481) is extended. Comments should be filed no later than May 22, 2023. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0157. 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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Al Tardiff, Office of Nuclear Security and Incident Response, telephone: 301–287–3613, email: *Al.Tardiff@nrc.gov,* or Stanley Gardocki, Office of Nuclear Regulatory Research, telephone: 301–415–1067, email: *Stanley.Gardocki@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0157 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this action, by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0157.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0157 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly

disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On February 21, 2023, the NRC published a document in the **Federal Register** (88 FR 10481) soliciting comments on DG–5065, ''Perimeter Intrusion Alarm Systems'' (ADAMS Accession No. ML22194A912). This DG provides implementing guidance acceptable to the NRC staff for meeting requirements in NRC regulations related to the functions of perimeter intrusion detection sensors and detection methods. The DG provides guidance on sensors and methods that can be integrated to form an effective perimeter intrusion detection system. In addition, the DG provides guidance on selecting perimeter intrusion detection systems and on applications for nuclear power reactors, independent spent fuel storage installations, and certain special nuclear material processing facilities. The comment period was originally scheduled to close on March 23, 2023. Upon the request of the Nuclear Energy Institute, the NRC has decided to extend the public comment period on this document until May 22, 2023, to allow more time for members of the public to submit their comments.

As noted in the **Federal Register** on December 9, 2022 (87 FR 75671), this document is being published in the ''Proposed Rules'' section of the **Federal Register** to comply with publication requirements under chapter 1 of title I of the *Code of Federal Regulations.*

Dated: March 16, 2023.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs, Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2023–05796 Filed 3–21–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AR76

Reevaluation of Claims for Dependency and Indemnity Compensation

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations concerning certain awards of Dependency and Indemnity Compensation (DIC). Under the proposed amendment, relevant claimants will be eligible to elect to have certain previously denied DIC claims reevaluated pursuant to changes that establish or modify a presumption of service connection. Any award as a result of the reevaluation may be made retroactive as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim. This amendment incorporates legislative changes enacted by the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 or the Honoring our PACT Act of 2022 and will bring federal regulations into conformance with those changes.

DATES: Comments must be received on or before May 22, 2023.

ADDRESSES: Comments must be submitted through *www.regulations.gov*. Except as provided below, comments received before the close of the comment period will be available at *www.regulations.gov* for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov*. VA will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking.

FOR FURTHER INFORMATION CONTACT: Eric Baltimore, Program Analyst, Pension and Fiduciary Service (21PF), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 204 of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 or the Honoring our PACT Act of 2022, Public Law 117–168 (herein referred to as ''the PACT Act''), enacted on August 10, 2022, amended, in relevant part, subchapter I of chapter 13 of title 38, United States Code, by adding a new section 1305 titled, ''Reevaluation of dependency and indemnity compensation determinations pursuant to changes in presumptions of service connection.'' VA proposes to issue a new regulation to be codified at 38 CFR 3.33 that incorporates this amendment.

Reevaluation of DIC Claim

DIC benefits are payable to eligible survivors of service members who died while on active duty, active duty for training, or inactive duty training; or eligible survivors of Veterans who (1) died as a result of a service-connected injury or disease or (2) were in receipt of, or entitled to receive, compensation at the time of death for a service-connected disability rated totally disabling (a) for at least 10 years immediately preceding death; or (b) for not less than five years since their release from active duty; or (c) for at least one year before death, if they were a former prisoner of war.

Service connection may be considered for certain conditions that VA presumes were caused by military service. If a Veteran's death is determined to be caused by a condition presumed to be incurred or aggravated by service, and the Veteran meets the unique circumstances and service requirements for that condition, DIC benefits may be awarded to an eligible survivor. Historically, VA has applied new presumptions of service connection based on statutory or regulatory changes prospectively, in accordance with 38 U.S.C. 5110(g). The amendments within the PACT Act will allow certain previously denied claims for DIC to be eligible for reevaluation based on any new (*i.e.,* postdating the prior DIC claims' denial) law, regulation, or Federal court decision or settlement that establishes or modifies a presumption of service connection, and allow for retroactive application (where applicable), commencing with

expanded presumptions afforded within the PACT Act itself.

The PACT Act also explains that any reevaluation of a previously denied DIC claim must be elected by the claimant. Proposed 38 CFR 3.33(c) states that the reevaluation of a previously denied DIC claim must be at the election of the relevant claimant and on a prescribed form pursuant to 38 CFR 3.152(a). Utilizing a prescribed form for the election of reevaluation by the claimant is consistent with 38 U.S.C. 5101(a)(1)(A) and 38 CFR 3.152(a), which provide that a specific claim on the form prescribed by the Secretary must be filed in order for VA to pay benefits. Additionally, use of a prescribed form facilitates the orderly and timely reevaluation of a previously denied claim for DIC by documenting the claimant's unambiguous intent to seek a specific benefit (namely, DIC) on the basis of the newly established or modified presumption. The PACT Act does not stipulate any time limitations for an election by the relevant claimant; thus, there is no temporal limitation on when a claimant can elect to have a previously denied DIC claim reevaluated based on any new law, regulation, or Federal court decision or settlement that establishes or modifies a presumption of service connection.

Effective Date of Award

The changes within the PACT Act allow an award, otherwise known as a grant of benefits, based on a reevaluation to be made retroactively as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim. We propose to state in 38 CFR 3.33(d)(1) that if VA denied a claim for DIC prior to a law, regulation, or Federal court decision or settlement establishing or modifying a presumption of service connection effective on or after August 10, 2022 (the date of enactment of the PACT Act), and a relevant claimant is entitled to DIC benefits based on that establishment or modification, the effective date of the award will be based on the date of the submission of the original claim.

VA interprets section 204 of the PACT Act to allow this special retroactive effective date treatment in reevaluating DIC claims based on presumptions of service connection created directly by the PACT Act itself, such as amendments made by section 404, as well as presumptions of service connection added in the future pursuant to the process created by section 202. However, DIC claims outside the scope of section 204 are unaffected. We therefore propose to state in 38 CFR 3.33(d)(2) that if the requirements of paragraph (d)(1) are not met, the effective date of the award of DIC shall be determined in accordance with 38 CFR 3.114 (pertaining to changes of law or VA issue) and 3.400 (pertaining to effective dates).

Identification of Relevant Claimants and Outreach

In order to properly implement the changes within the PACT Act, VA must identify and contact relevant claimants who submitted claims for DIC benefits that were previously denied and might have been evaluated differently had the newly established or modified presumption of service connection been in effect, and applicable to the claim, on the date it was originally submitted. Proposed 38 CFR 3.33(b) would define a relevant claimant for the purposes of reevaluation of a previously denied DIC claim as an individual who submitted a claim for DIC to VA that was evaluated and denied by VA before the date on which a law, regulation, or Federal court decision or settlement establishing or modifying a presumption of service connection went into effect and might have been evaluated differently had the establishment or modification of presumption of service connection been applicable to the claim.

Furthermore, the PACT Act explains that the Secretary must conduct outreach to notify relevant claimants that they may elect reevaluation of a previously denied DIC claim. Proposed 38 CFR 3.33(e) would outline the efforts that VA would undertake to inform a relevant claimant that they may elect reevaluation in light of the establishment or modification of a presumption of service connection. Within the proposed outreach efforts VA plans to inform relevant claimants that they may submit a claim by mail, in person at a VA regional office, or electronically through *VA.gov*. We propose the following outreach efforts to align with the outreach efforts defined within the PACT Act: (1) Publish on the internet website of the Department a notice that such claimants may elect to have a claim so reevaluated; (2) Notify, in writing, or by electronic means, Veterans service organizations of the ability of such claimants to elect to have a claim reevaluated; and (3) Contact each relevant claimant in the same manner that the Department last provided notice of a decision. These efforts mirror the statutory requirements found under 38 U.S.C. 1305(b)(2).

The proposed outreach efforts would apply only to the original claimants of previously denied DIC claims because, as explained in the Accrued and Substitution Claims section below, only original claimants may initiate the reevaluation process.

Accrued and Substitution Claims

The PACT Act is silent on the accrued benefits or substitution process as it relates to the reevaluation of previously denied DIC claims. Thus, the existing processes regarding accrued benefits and substitution, contained in 38 U.S.C. 5121 and 5121A, would continue to apply. Under these rules, if VA grants substitution for a DIC reevaluation under 38 U.S.C. 1305(a) it will continue processing the reevaluation election as if it were made by the original claimant. To be clear, VA will only grant substitution for a DIC reevaluation in circumstances where the original claimant elected to have the previously denied claim reevaluated but subsequently died before the decision on the claim became final. An individual seeking accrued benefits or substitution cannot elect a reevaluation under the PACT Act of a previously denied DIC claim if the original claimant had not made such an election prior to their death. See 38 U.S.C. 5121A(a)(1); 38 CFR 3.1010(g)(1) (a claim must be ''pending'' in order for VA to grant substitution). However, an individual can pursue claims and appeals that were pending at the time of the original claimant's death, to include an original claimant's pending reevaluation election under the PACT Act, or claims where the period allowed by law for filing a notice of disagreement has not expired, as a substituted claimant if VA grants substitution.

Severability

The purpose of this section is to clarify the agencies' intent with respect to the severability of provisions of this proposed rule. Each provision that the agency has proposed is capable of operating independently. If any provision of this rule is determined by judicial review or operation of law to be invalid, that partial invalidation will not render the remainder of this rule invalid. Likewise, if the application of any portion of this rule to a particular circumstance is determined to be invalid, the agencies intend that the rule remain applicable to all other circumstances.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov*.

Paperwork Reduction Act

This proposed rule includes provisions constituting a revised collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

OMB assigns control numbers to collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing the collection of information or take such other action as is directed by OMB.

Comments on the new collection of information contained in this rulemaking should be submitted through *www.regulations.gov*. Comments should indicate that they are submitted in response to RIN 2900–AR76 *Reevaluation of Claims for Dependency and Indemnity Compensation* and should be sent within 60 days of publication of this rulemaking. The collection of information associated with this rulemaking can be viewed at: *www.reginfo.gov/public/do/PRAMain*.

OMB is required to make a decision concerning the collection of information contained in this rulemaking between 30 and 60 days after publication of this rulemaking in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the provisions of this rulemaking.

VA considers comments by the public on revised collection of information in

- Evaluating whether the revised collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the revised collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The revised collection of information associated with this rulemaking contained in 38 CFR 3.33 is described immediately following this paragraph, under its respective title.

Title: This control number includes 3 prescribed forms, however, only VA Form 21P–534EZ has a revised collection of information associated with this rulemaking.

1. VA Form 21P–534EZ, *Application for DIC, Survivors Pension, and/or Accrued Benefits*
2. VA Form 21P–534, *Application for Dependency and Indemnity Compensation, Survivors Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Available)*
3. VA Form 21P–534a, *Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child—In-Service Death Only*.

OMB Control No: 2900–0004.
CFR Provision: 38 CFR 3.33.

- *Summary of collection of information:* The revised collection of information in proposed 38 CFR 3.33 would allow respondents to elect to have certain previously denied DIC claims reevaluated pursuant to changes that establish or modify a presumption of service connection. VA estimates this proposed change will increase the respondent burden by an additional 14,828 respondents in fiscal year 2023 (FY23), subsequently increasing the estimated total annual reporting and recordkeeping burden.
- *Description of need for information and proposed use of information:* VA, through the Veterans Benefits Administration, administers an integrated program of benefits and services, established by law, for Veterans, service personnel, and their dependents and/or beneficiaries. Under the authority of 38 U.S.C. 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317 and 1318, VA will pay DIC benefits upon the death of a Veteran to certain eligible claimants. The information will be used by VA to determine if the claimant is eligible to elect to have certain previously denied DIC claims reevaluated pursuant to changes that establish or modify a presumption of service connection.
- *Description of likely respondents:* The respondent population for VA Form 21P–534EZ, VA Form 21P–534, and VA Form 21P–534a is primarily composed of survivors of deceased Veterans applying for VA survivors' benefits.
- *Estimated number of respondents:* Number of respondents is estimated at 181,588 per year for all 3 forms associated with OMB control number 2900–0004. These totals were derived from a query of our claims database and represent the actual number of each form received in an average year plus an additional estimated 14,828 respondents based on the change in section 204 of Public Law 117–168.
- *Estimated frequency of responses:* One time per application.
- *Estimated average burden per response:* The estimated completion time for each form is 43 minutes (0.716666 hours):
  - VA Form 21P–534EZ completion time is 40 minutes (0.67 hours)
  - VA Form 21–534 completion time is 1 hour and 15 minutes (1.25 hours)
  - VA Form 21–534a completion time is 15 minutes (.25 hours)
- *Estimated total annual reporting and recordkeeping burden:* VA estimates the total annual reporting and recordkeeping burden for all three forms to be 130,138 burden hours. VA estimates the annual reporting and recordkeeping burden based on the proposed rule to be 10,626 burden hours. This submission does not involve any recordkeeping costs.
- *Estimated cost to respondents per year:* VA estimates the annual cost to respondents to be $3,645,165 (130,138 burden hours for respondents × $28.01 per hour). VA estimates that the proposed rule would increase the number of respondents in FY23 by 14,828. The increase in cost to respondents per year based on the additional 14,828 respondents would result in an estimated information collection burden cost increase of $297,634 (10,626 burden hours × $28.01 per hour).

* To estimate the total information collection burden cost, VA used the

Bureau of Labor Statistics (BLS) median hourly wage for hourly wage for ''all occupations'' of $28.01 per hour. This information is available at *https://www.bls.gov/oes/current/oes_nat.htm#13-0000*.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Assistance Listing

The Assistance Listing numbers and titles for the programs affected by this document are: 64.101, Burial Expenses Allowance for Veterans; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on February 15, 2023, 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.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 3 as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Add § 3.33 to read as follows:

§ 3.33 Reevaluation of Claims for Dependency and Indemnity Compensation Involving Presumptions of Service Connection Following Enactment of Public Law 117–168.

(a) *Purpose* This section states effective date and election rules based on amendments made under Public Law 117–168, which provides for the reevaluation of certain previously denied dependency and indemnity compensation (DIC) claims when a law establishes or modifies a presumption of service connection.

(b) *Definitions* For purpose of this section:

(1) *Law* means any law, regulation, or Federal court decision or settlement establishing or modifying a presumption of service connection.

(2) *Relevant claimant* means an individual who submitted a claim for DIC to VA that was evaluated and denied by VA before the date on which such a provision of law went into effect and might have been evaluated differently had the establishment or modification of the service connection presumption been applicable to the claim.

(c) *Election of review*

(1) *General.* VA will not reevaluate under this section any previously denied claim for DIC prior to election by the relevant claimant.

(2) *Form of election.* Reevaluation of a previously denied DIC claim must be at the election of the relevant claimant on a prescribed form pursuant to § 3.152(a).

(d) *Effective date of award.* If a relevant claimant is found entitled to DIC based on the establishment or modification of a presumption of service connection, the effective date of the award will be as follows:

(1) If VA denied a claim for DIC prior to a law defined under (b)(1) of this section that establishes or modifies a presumption of service connection on or after August 10, 2022, (the date of enactment of Pub. L. 117–168), the effective date of the award will be determined as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim.

(2) If the requirements of paragraph (d)(1) are not met, the effective date of the award shall be determined in accordance with §§ 3.114 and 3.400.

(e) *Outreach and identification of relevant claimants*

(1) VA will conduct the following efforts to inform a relevant claimant that they may elect to have a claim reevaluated in light of the establishment or modification of a presumption of service connection:

(i) Publish on the internet website of the Department a notice that such claimants may elect to have a claim so reevaluated;

(ii) Notify, in writing or by electronic means, veterans service organizations of the ability of such claimants to elect to have a claim so reevaluated; and

(iii) Notify each such claimant in the same manner that the Department last provided notice of a decision.

(Authority: 38 U.S.C. 501, 1305)

[FR Doc. 2023–05840 Filed 3–21–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 38

RIN 2900–AR81

Names for National Cemeteries and Features

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to remove its regulation concerning the naming of cemeteries and features. VA is proposing this action because, after reviewing internal policy and processes, VA determined this regulation is obsolete and unnecessary. When VA promulgated this regulation, VA's cemetery naming activities were supported by statute and served a purely administrative function that did not change existing law or policy and did not affect individual rights or obligations. The activities therefore did not require a regulation to effectuate. However, now that the regulation is in effect, removing it would change existing policy, which requires a rulemaking. The Secretary of Veterans Affairs (the Secretary) has authority for naming Department property and has delegated in regulation the authority for naming features within national cemeteries to the Under Secretary for Memorial Affairs, who is the head of VA's National Cemetery Administration.

Therefore, this action is under the authority of the National Cemetery Administration.

DATES: Comments must be received on or before May 22, 2023.

ADDRESSES: Comments must be submitted through *www.regulations.gov*. Except as provided below, comments received before the close of the comment period will be available at *www.regulations.gov* for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov*. VA will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and may not be considered in the final rulemaking.

FOR FURTHER INFORMATION CONTACT: Michelle Myers, Management and Program Analyst, Legislative and Regulatory Service (42E), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone: (202) 717–2979 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Generally, 5 U.S.C. chapter 5 establishes procedures by which Federal agencies can formulate regulations, and 5 U.S.C. 553 addresses which agency rulemakings require ''notice and comment'' and publication in the **Federal Register**. Also, 38 U.S.C. 501(a) gives the Secretary ''authority to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department.'' Under this broad authority, the Secretary is also authorized to repeal rules or regulations that are neither necessary nor appropriate to carry out the laws administered by the Department. See generally 5 U.S.C. 551(5) (defining ''rule making'' to include ''repealing a rule.'').

The Secretary's authority for naming cemeteries is codified in 38 U.S.C. 531, and the Secretary's authority for naming features within national cemeteries is delegated to the Under Secretary for Memorial Affairs in 38 CFR 2.6(f)(4).

In January 1978, VA proposed regulations (43 FR 1628 (January 11, 1978)) related to the operation of the National Cemetery System. The proposed regulations were to provide rules for the Advisory Committee on Cemeteries and Memorials, the naming of national cemeteries and activities and features therein, acceptance of gifts and donations, and other topics. The proposed rule for naming cemetery activities unnecessarily restated both the statutory authority of the Secretary for naming national cemeteries and the authority delegated to the Under Secretary for Memorial Affairs in § 2.6(f)(4) to name features in national cemeteries. It also included a paragraph establishing the basis for names and stated that names of cemetery activities may be based on physical and area characteristics, the nearest important city (town), or a historical characteristic related to the area. The rule also stated that newly constructed interior thoroughfares for vehicular traffic will be known as '''drives' '' and will be named after cities, counties, or States or after historically notable persons, places, or events. The rule became final on June 14, 1978.

The VA's National Cemetery Administration (NCA) honors Veterans and their eligible family members with final resting places in national shrines and with lasting tributes that commemorate their service to and sacrifice for our nation. As part of that mission, NCA owns and operates 155 national cemeteries covering more than 22,000 acres of land from Hawaii to Maine, and from Alaska to Puerto Rico.

In 1998, with sec. 1001 of the Veterans Programs Enhancement Act of 1998, Pub. L. 105–368, 112 Stat. 3315, Congress amended Title 38 of the U.S. Code to add sec. 531, which established the statutory requirement relating to naming of VA property. Effective on November 12, 1998, Department facilities, structures, or real property or major portions thereof may only be named for the geographic area in which the facility, structure or property is located. In a recent review of policy for naming national cemeteries and features, VA determined the addition of sec. 531 makes the 1978 rule no longer necessary or appropriate. For these reasons, VA proposes to remove 38 CFR 38.602.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov*.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The naming of national cemeteries and features is an internal operations function that only affects VA national cemeteries. As well this proposed rule revokes the existing regulation and will have no economic impact on small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 (one) year. This proposed rule would have no such effect on State, local, and Tribal governments, or on the private sector.

List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 16, 2023, 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.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, and under the authority of 38 U.S.C. 501, the Department of Veterans Affairs proposes to amend 38 CFR part 38 as follows:

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 38 U.S.C. 107, 501, 512, 2306, 2400, 2402, 2403, 2404, 2407, 2408, 2411, 7105.

§ 38.602 [Removed]

■ 2. Remove § 38.602.

[FR Doc. 2023–05852 Filed 3–21–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 23–209; MB Docket No. 23–86; RM–11948; FR ID 132368]

Radio Broadcasting Services; Tecopa, California

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Shamrock Communications, Inc., proposing to amend the FM Table of Allotments, by substituting Channel 256A for vacant Channel 288A at Tecopa, California to accommodate the hybrid modification application for Station KRZQ(FM) that proposes to upgrade from Channel 290C1 to Channel 291C at Amargosa Valley, Nevada. A staff engineering analysis indicates that Channel 256A can be allotted to Tecopa, California, consistent with the minimum distance separation requirements of the Commission's rules, with a site restriction of 2.3 km (1.4 miles) northwest of the community. The reference coordinates are 35–50–48 NL and 116–13–27 WL.

DATES: Comments must be filed on or before May 5, 2023, and reply comments on or before May 22, 2023.

ADDRESSES: Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner and its counsel as follows: James M Lewandowski, Shamrock Communications, Inc., 149 Penn Avenue, Scranton, PA 18503 and David A O'Connor, ESQ., c/o Shamrock Communications, Inc., Wilkinson Barker Knauer, LLP, 1800 M Street NW, Suite 800N, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2054.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Federal Communications Commission's (Commission) Notice of Proposed Rule Making, MB Docket No. 23–86, adopted March 14, 2023, and released March 14, 2023. The full text of this Commission decision is available online at *https://apps.fcc.gov/ecfs.* The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at *https://www.fcc.gov/edocs.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.202, in the table in paragraph (b), under California, revise the entry for ''Tecopa'' to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)

[U.S. States]	Channel No.
* * * * *	
California	
* * * * *	
Tecopa	256A
* * * * *	

* * * * *

[FR Doc. 2023–05794 Filed 3–21–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 230315–0075]

RIN 0648–BK54

Atlantic Highly Migratory Species; Prohibiting Retention of Oceanic Whitetip Sharks in U.S. Atlantic Waters and Hammerhead Sharks in the U.S. Caribbean Sea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to prohibit the retention and possession of oceanic whitetip sharks (*Carcharhinus longimanus*) in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, and

hammerhead sharks (great (*Sphyrna mokarran*), smooth (*S. zygaena*), and scalloped (*S. lewini*) hammerhead sharks) in U.S. waters of the Caribbean Sea. NMFS is proposing this action in response to two Biological Opinions (BiOps) for Atlantic Highly Migratory Species (HMS): one for the pelagic longline (PLL) fishery and one for the non-PLL fisheries. The BiOps strongly encouraged the inclusion of the scalloped hammerhead shark Central and Southwest Atlantic Distinct Population Segment (DPS) and the oceanic whitetip shark on the list of prohibited sharks for recreational and/or commercial HMS fisheries. This proposed rule could impact all HMS permitted fishermen.

DATES: Written comments must be received by May 22, 2023. NMFS will hold a public hearing via webinar for this proposed rule on April 25, 2023, from 2 p.m. to 4 p.m. For webinar registration information, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0025, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2023–0025'' in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the close 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).

NMFS will hold a public hearing via conference call/webinar on this proposed rule. For specific location, date and time, see the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of this proposed rule and supporting documents are available from the HMS Management Division website at *https://www.fisheries.noaa.gov/action/proposed-rule-retention-prohibition-oceanic-whitetip-sharks-us-atlantic-waters-and* or by contacting Ann Williamson at *ann.williamson@noaa.gov* or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Ann Williamson, *ann.williamson@noaa.gov,* or Karyl Brewster-Geisz, *karyl.brewster-geisz@noaa.gov,* 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. ATCA authorizes the Secretary of Commerce to promulgate such regulations as necessary and appropriate to carry out recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

The Atlantic shark fisheries are composed of 42 species of sharks including oceanic whitetip and scalloped hammerhead sharks. In 2014, NMFS published a final rule (79 FR 38213, July 3, 2014) that, among other things, issued a final determination listing the Central and Southwest Atlantic DPS of scalloped hammerhead sharks as threatened under the Endangered Species Act (ESA). This 2014 final rule defined the Central and Southwest Atlantic DPS as bounded to the north by 28° N lat., to the east by 30° W long., and to the south by 36° S lat. This DPS boundary included the U.S. exclusive economic zone off Puerto Rico and the U.S. Virgin Islands. In 2018, NMFS published a final rule (83 FR 4153, January 30, 2018) that determined oceanic whitetip sharks warranted listing as a threatened species under the ESA throughout its range.

In May 2020, NMFS issued two BiOps, the ''Biological Opinion on the Operation of the HMS Fisheries excluding Pelagic Longline'' and the ''Biological Opinion on the Operation of the HMS Pelagic Longline Fishery,'' prepared under section 7(a)(2) of the ESA. These BiOps concluded consultation on the HMS PLL and non-PLL fisheries, as managed under the 2006 Consolidated HMS FMP and its amendments.[1] In these BiOps, NMFS concluded that operations of the U.S. HMS PLL fishery and non-PLL fisheries were not likely to jeopardize the continued existence of either the scalloped hammerhead shark Central and Southwest Atlantic DPS or oceanic whitetip sharks. Nevertheless, the BiOps included conservation recommendations for oceanic whitetip shark and the scalloped hammerhead shark Central and Southwest Atlantic DPS that strongly encouraged the inclusion of these federally protected species on the HMS list of prohibited shark species for recreational and/or commercial HMS fisheries.

Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks (68 FR 74746, December 24, 2003) established regulatory criteria, codified at § 635.34(c), for adding or removing a shark from the prohibited shark species group (Table 1 of Appendix A to 50 CFR part 635). Relevant to this proposed action, § 635.34(c) provides that NMFS may add species to the prohibited shark species group if the species is determined to meet at least two of the following four criteria:

(1) Biological information indicates that the stock warrants protection;

(2) Information indicates that the species is rarely encountered or observed caught in HMS fisheries;

(3) Information indicates that the species is not commonly encountered or observed caught as bycatch in fishing operations for species other than HMS; and

(4) The species is difficult to distinguish from other prohibited species.

Additionally, in November 2010, ICCAT adopted Recommendations 10–07 and 10–08, which prohibits retaining onboard, transshipping, landing, storing, selling, or offering for sale any part or whole carcass of oceanic whitetip sharks and hammerhead sharks in the family Sphyrnidae (except bonnethead sharks (*S. tiburo*)) taken in the Convention area in association with ICCAT fisheries. These recommendations were adopted by ICCAT to reduce fishing mortality of oceanic whitetip sharks and hammerhead sharks. As a result, NMFS published a final rule to implement Recommendations 10–07 and 10–08 (76 FR 53652, August 29, 2011). That final rule prohibited the retention, transshipping, landing, storing, or selling of oceanic whitetip sharks and hammerhead sharks (except bonnethead sharks) caught in association with ICCAT fisheries. The rule prohibited the

[1] In July 2022, NMFS requested reinitiation of consultation on the effects of the HMS PLL fishery due to new information on mortality of giant manta ray that exceeded estimates from the 2020 BiOp. Pending completion of this consultation, the fishery continues to operate consistent with the Reasonable and Prudent Measures and Terms and Conditions specified in the May 2020 BiOp, and NMFS continues to monitor take of giant manta rays in the fishery.

retention of oceanic whitetip sharks and hammerhead sharks by HMS commercially-permitted vessels that had PLL gear on board, and recreational fishermen where tunas, swordfish, and/or billfish were also retained. Specifically, in that rule, recreational fishermen included fishermen fishing with a General category permit when participating in an HMS tournament, or under an HMS Angling or Charter/Headboat permit, where tunas, swordfish, and/or billfish are also retained. Under the current regulations, recreational fishermen would also include fishermen fishing with a Swordfish General Commercial permit when participating in an HMS tournament. Commercial shark bottom longline (BLL), gillnet, or handgear fisheries and shark recreational fisheries when tunas, swordfish, and/or billfish are not retained were not impacted by the 2011 rule because they were not considered ICCAT fisheries (*i.e.,* fisheries that target tunas, swordfish, and/or billfish) and thus could continue to retain oceanic whitetip and hammerhead sharks.

For this proposed rule, NMFS has prepared a draft Environmental Assessment (EA), Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA), which present and analyze the anticipated environmental, social, and economic impacts of each alternative considered for this proposed rule. A brief summary of the alternatives considered is provided below. Additional information regarding this action and Atlantic shark management overall can be found in the draft EA/RIR/IRFA, the 2006 Consolidated HMS FMP and its amendments, the annual HMS Stock Assessment and Fishery Evaluation Reports, and online at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species.*

Proposed Measures

This proposed rule implements two of the conservation recommendations from the May 2020 BiOps. NMFS is proposing to add oceanic whitetip shark to the prohibited shark species group, remove oceanic whitetip shark from the list of pelagic indicator species, and prohibit the possession and retention of great, smooth, and scalloped hammerhead sharks in the U.S. Caribbean region. As described below, NMFS considered two alternatives concerning oceanic whitetip sharks and five alternatives for the scalloped hammerhead shark Central and Southwest DPS. These alternatives included both no action alternatives and preferred alternatives. The purpose of this proposed action is to reduce the mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks, which are both listed as threatened under the ESA. This effort would promote the conservation and recovery of these threatened species.

Under the preferred alternative for oceanic whitetip sharks (Alternative A2), NMFS would add oceanic whitetip sharks to the prohibited shark species group using the criteria in § 635.34(c). Once added to the prohibited shark species group, the retention, possession, landing, sale, and purchase of oceanic whitetip sharks or parts of oceanic whitetip sharks would be prohibited in all commercial and recreational HMS fisheries in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. As part of this alternative, NMFS would also remove oceanic whitetip sharks from the list of pelagic indicator species (Table 2 to Appendix A to Part 635) because sharks in the prohibited shark species group cannot be possessed or landed and therefore their presence onboard should not be considered an indicator of a pelagic longline vessel. This alternative could reduce the mortality of oceanic whitetip sharks and promote conservation and recovery of this threatened species.

Per the criteria outlined in § 635.34(c), oceanic whitetip sharks currently meet the first, second, and third criteria. Regarding the first criterion, as a result of a status review conducted under the ESA, oceanic whitetip sharks are listed as threatened throughout their range, which indicates that the stock warrants protection. Regarding the second criterion, few oceanic whitetip sharks are caught in HMS fisheries. From 2017 to 2021, no oceanic whitetip sharks were landed in the commercial sector and interactions between HMS fisheries and oceanic whitetip sharks are low. According to PLL HMS logbook data from the same time period, all individuals were discarded (2,856 were discarded alive and 425 were discarded dead) and there have been no observed interactions between oceanic whitetip sharks and non-PLL fisheries. In the recreational sector, the most recent harvest of oceanic whitetip sharks occurred in 2021 and 2019, with one shark harvested in each year. Thus, the species is not commonly encountered or observed in HMS fisheries compared to target species. Regarding the third criterion, oceanic whitetip sharks are not often seen in non-HMS fisheries, and are therefore not commonly encountered or observed as bycatch. Oceanic whitetip sharks do not meet the fourth criterion as they can be identified relatively easily by their large, rounded, and white-tipped dorsal and pectoral fins.

Under the preferred alternative for hammerhead sharks (Alternative B4), NMFS would prohibit the possession and retention of hammerhead sharks in the large coastal shark (LCS) complex (*i.e.,* great, smooth, and scalloped hammerhead sharks) in all HMS fisheries in the U.S. Caribbean region, as defined at § 622.2. Currently, commercial vessels with gear types other than PLL (*e.g.,* BLL, gillnet, or handgear) can retain all hammerhead sharks. This alternative would prohibit retention and possession of LCS hammerhead sharks for all HMS commercial and recreational permit holders in the U.S. Caribbean region, including in those instances where it was previously authorized (*i.e.,* recreational permit holders with a shark endorsement when tunas, swordfish, and/or billfish are not retained). Due to the difficulty in differentiating between the various species of LCS hammerhead sharks, the preferred alternative applies to all LCS hammerhead sharks so as to mitigate the potential for continued mortality from fishermen either bringing hammerhead sharks on board to identify the species (increasing the likelihood of post-release mortality) or unintentionally retaining a scalloped hammerhead shark due to misidentification. This alternative could reduce the mortality of hammerhead sharks and promote the conservation and recovery of the scalloped hammerhead shark Central and Southwest Atlantic DPS.

In addition to the proposed measures, in the EA for this action, NMFS analyzed two no action alternatives (Alternatives A1 and B1) that would maintain the status quo for oceanic whitetip sharks and hammerhead sharks. NMFS does not prefer the no action alternatives because they do not meet the objectives of the rule or the conservation recommendations in the 2020 BiOps. The EA for this action also describes the impacts of three other alternatives for hammerhead sharks: prohibiting retention of scalloped hammerhead sharks in U.S. waters of the Caribbean Sea (Alternative B2), prohibiting retention of scalloped hammerhead sharks in all regions (*i.e.,* U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea) (Alternative B3), and prohibiting retention of all LCS hammerhead sharks in all regions (*i.e.,* U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea) (Alternative B5).

Alternative B3 also includes an analysis on adding scalloped hammerhead sharks to the prohibited shark species group using the criteria at § 635.34(c). At this time, NMFS does not prefer any alternative that prohibits only the retention of scalloped hammerhead sharks because NMFS recognizes that species identification can be difficult. Not prohibiting retention of smooth and great hammerhead sharks could result in scalloped hammerhead sharks experiencing continued mortality due to misidentification. Further, NMFS does not prefer an alternative that prohibits retention of all LCS hammerhead sharks in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, because it goes well beyond the conservation recommendations put forth by the 2020 BiOps and would unnecessarily limit commercial and recreational fisheries throughout U.S. waters of the Atlantic Ocean and Gulf of Mexico from accessing LCS hammerhead sharks.

Request for Comments

NMFS is requesting comments on this proposed rule which may be submitted via *www.regulations.gov* or at a public webinar. NMFS solicits comments on this action by April 21, 2023 (see **DATES** and **ADDRESSES**).

During the comment period, NMFS will hold a public hearing via webinar for this proposed action. Information on the webinar will be posted at: *https://www.fisheries.noaa.gov/action/proposed-rule-retention-prohibition-oceanic-whitetip-sharks-us-atlantic-waters-and.* Requests for sign language interpretation or other auxiliary aids should be directed to Ann Williamson at *ann.williamson@noaa.gov* or 301–427–8503, at least 7 days prior to the meeting.

At the beginning of each webinar, the moderator will explain how the webinar will be conducted and how and when participants can provide comments. The NMFS representative(s) will structure the webinars so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Participants are expected to respect the ground rules, and those that do not may be asked to leave the webinars.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

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

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 603(b)(1) requires agencies to describe the reasons why the action is being considered. The purpose of this proposed rulemaking is to reduce the mortality of oceanic whitetip sharks and the scalloped hammerhead shark Central and Southwest Atlantic DPS, which are listed as threatened under the ESA, consistent with the objectives of the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, the 2020 BiOps, and other applicable law. This effort would promote the conservation and recovery of these threatened species. Implementation of the proposed rule would further the management goals and objectives stated in the 2006 Consolidated HMS FMP and its amendments.

Section 603(b)(2) of the RFA requires agencies to state the objectives of, and legal basis for, the proposed action. The objective of this proposed rulemaking is to add oceanic whitetip sharks to the prohibited shark species group using the criteria in § 635.34(c) and to prohibit the commercial and recreational retention of LCS hammerhead sharks in the U.S. Caribbean region. The legal basis for the proposed rule is the Magnuson-Stevens Act.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the proposed rule would apply. For RFA compliance purposes, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411). The Small Business Administration (SBA) has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210), which includes for-hire (charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (water) sector as one with average annual receipts (revenue) of less than $14 million. Therefore, NMFS considers all HMS permit holders, both commercial and for-hire, to be small entities because they had average annual receipts of less than their respective sector's standard of $11 million and $14 million. The 2021 total ex-vessel annual revenue for the shark fishery was approximately $2.4 million. Since a small business is defined as having annual receipts not in excess of $11 million, each individual shark fishing entity would fall within the small business definition. Thus, all of the entities affected by this rule are considered to be small entities for the purposes of the RFA. As of October 2022, there were 206 Shark Directed permits, 241 Shark Incidental permits, 76 HMS Commercial Caribbean Small Boat permits, 4,175 Charter/Headboat permits (with 2,994 shark endorsements and 1,873 commercial sale endorsements), 23,607 Angling permits (with 12,978 shark endorsements), and 603 Atlantic Tunas General and Swordfish General Commercial permits (with 388 shark endorsements). For more information regarding the distribution of these permits across states and territories please see the HMS Stock Assessment and Fishery Evaluation Report.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements. This proposed rule would add oceanic whitetip sharks on the prohibited shark species group using the criteria in § 635.34(c) to prohibit the commercial and recreational retention of oceanic whitetip sharks for all HMS permit holders in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This proposed rule would also prohibit the commercial and recreational retention of LCS hammerhead sharks for all HMS permit holders in the U.S. Caribbean region.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management measures. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, ESA, the National Environmental Policy Act, the

Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed action has been determined not to duplicate, overlap, or conflict with any Federal rules.

Under section 603(c) of the RFA, agencies must describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Specifically, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives to assist an agency in the development of significant alternatives. These categories of alternatives are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule, or any part thereof, for small entities.

Regarding the first, second, and fourth categories, all of the businesses impacted by this proposed rule are considered small entities, and thus the requirements are already designed for small entities. Regarding the third category, NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking. As described below, NMFS analyzed several different alternatives in this proposed rulemaking and provides rationales for identifying the preferred alternatives to achieve the desired objectives.

The alternatives considered and analyzed are described below. The IRFA assumes that each vessel will have similar catch and gross revenues to show the relative impact of the proposed action on vessels.

Alternative A1, the No Action alternative, would continue to allow commercial permit holders issued a Shark Directed or Incidental limited access permit using other authorized gear (excluding PLL gear) and/or HMS Charter/Headboat permit with a commercial sale endorsement the opportunity to land and sell oceanic whitetip sharks when tuna or tuna-like species are not retained, possessed, on board, or offloaded from, the vessel on the same trip. Vessels fishing recreationally would continue to have the ability to retain oceanic whitetip sharks when tuna or tuna-like species are not possessed on the same recreational trip. This alternative would not be expected to result in any additional economic impacts for HMS permit holders.

Alternative A2, the preferred alternative, would add oceanic whitetip sharks to the prohibited shark species group using the criteria in § 635.34(c) to prohibit the commercial and recreational retention of oceanic whitetip sharks in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative would be consistent with the conservation recommendations from both the 2020 BiOps. From 2017 to 2021, there have been few instances of oceanic whitetip sharks being retained in HMS commercial shark fisheries. This alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators. However, oceanic whitetip sharks are rarely a target species and are worth less than other more valuable target species. Overall, this alternative would be expected to have very minor adverse socioeconomic impacts on the small entities participating in the fishery.

Under Alternative B1, the No Action alternative, retention of scalloped hammerhead sharks on vessels targeting tunas, swordfish, and/or billfish with PLL gear onboard would continue to be prohibited. Commercial permit holders issued a Shark Directed or Incidental limited access permit and/or HMS Charter/Headboat permit with a commercial sale endorsement using other authorized gear that do not target tuna and tuna-like species (*e.g.,* bottom longline, gillnet, rod and reel, handline, and bandit gear) would still be authorized to fish for, and land scalloped hammerhead sharks subject to existing commercial regulations. This alternative would not be expected to result in any change in economic impacts on the small entities participating in the fishery.

Under Alternative B2, NMFS would prohibit the commercial and recreational retention of scalloped hammerhead sharks for shark commercial and recreational permit holders fishing in U.S. Caribbean region. This alternative would be consistent with the conservation recommendations from both the 2020 BiOps. Between 2017 and 2021, there were no reported landings of scalloped hammerhead sharks in the U.S. Caribbean region and therefore it is unlikely revenue would be lost from prohibiting retention of this species. However, there could be some minor costs associated with discarding or avoiding scalloped hammerhead sharks within that region. This alternative could also limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators. This alternative would be expected to have neutral to minor adverse economic impacts on the small entities participating in the fishery.

Under Alternative B3, NMFS would prohibit the commercial and recreational retention of scalloped hammerhead in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative would be consistent with the conservation recommendations from both the 2020 BiOps. On average, from 2017 to 2021, scalloped hammerhead sharks contributed $10,753 of revenue in the Atlantic and Gulf of Mexico shark fisheries combined. This equates to less than 0.5 percent of the total revenue from all shark fisheries. However, there could be some minor costs associated with discarding or avoiding scalloped hammerhead sharks. This alternative could also limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators. Therefore, this alternative would be expected to have minor adverse economic impacts on the small entities participating in the fishery.

Under Alternative B4, the preferred alternative, NMFS would prohibit the commercial and recreational retention of all LCS hammerhead sharks in the U.S. Caribbean region. This alternative would be consistent with the conservation recommendations from both the 2020 BiOps. Between 2017 and 2021, there were no reported landings of hammerhead sharks in the U.S. Caribbean region and therefore it is unlikely revenue would be lost from prohibiting this species. However, there could be some minor costs associated with discarding or avoiding hammerhead sharks within that region and this alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators targeting hammerhead sharks. NMFS prefers Alternative B4 because it would implement the 2020 BiOps conservation recommendations and provide the most robust protections for scalloped hammerhead sharks while not limiting fishing opportunities for hammerhead sharks in the Atlantic and Gulf of Mexico. This alternative would be expected to have minor adverse economic impacts on the small entities participating in the fishery.

Under Alternative B5, NMFS would prohibit the commercial and recreational retention of all LCS hammerhead sharks in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative would be consistent with the conservation recommendations from

both the 2020 BiOps. On average, from 2017 to 2021, hammerhead sharks contributed $42,794 of revenue in the Atlantic Ocean and Gulf of Mexico shark fisheries combined. This equates to less than 2 percent of the total revenue from all shark fisheries. However, there could be some minor costs associated with discarding or avoiding hammerhead sharks and this alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators. Therefore, this alternative would be expected to have minor adverse economic impacts on the small entities participating in the fishery.

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

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: March 16, 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 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.22, revise paragraphs (a)(2) and (c)(2), and add paragraph (c)(9) to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(a) * * *

(2) Vessels issued an Atlantic Tunas General category permit under § 635.4(d) that are participating in an HMS registered tournament, vessels issued an HMS Angling category permit under § 635.4(c), or vessels issued an HMS Charter/Headboat permit under § 635.4(b) may not retain, possess or land scalloped, smooth, or great hammerhead sharks if swordfish, tuna, or billfish are retained or possessed on board, or offloaded from, the vessel. Such vessels also may not retain, possess or land swordfish, tuna, or billfish if scalloped, smooth, or great hammerhead sharks are retained or possessed on board, or offloaded from, the vessel.

* * * * *

(c) * * *

(2) Only one shark from the following list may be retained per vessel per trip, subject to the size limits described in § 635.20(e)(2) and (4): Atlantic blacktip, Gulf of Mexico blacktip, bull, great hammerhead, scalloped hammerhead, smooth hammerhead, lemon, nurse, spinner, tiger, blue, common thresher, porbeagle, Atlantic sharpnose, finetooth, Atlantic blacknose, Gulf of Mexico blacknose, and bonnethead.

* * * * *

(9) No person who has been issued or should have been issued a permit under § 635.4 of this part may retain, possess, or land scalloped, smooth, or great hammerhead sharks in or from the Caribbean, as defined at § 622.2 of this chapter.

* * * * *

■ 3. In § In 635.24, revise paragraphs (a)(4)(iv) and (a)(9), and add paragraph (a)(11) to read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

* * * * *

(a) * * *

(4) * * *

(iv) A person who owns, operates, or is aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may retain, possess, land, or sell any blacktip, bull, lemon, nurse, spinner, tiger, Atlantic sharpnose, bonnethead, finetooth, and smoothhound shark, subject to the HMS Commercial Caribbean Small Boat permit shark retention limit. A person who owns, operates, or is aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may not retain, possess, land, or sell any hammerhead, blacknose, silky, sandbar, blue, thresher, shortfin mako, or prohibited shark, including parts or pieces of these sharks. The shark retention limit for a person who owns, operates, or is aboard a vessel issued an HMS Commercial Caribbean Small Boat permit will range from zero to three sharks per vessel per trip. At the start of each fishing year, the default shark trip limit will apply. During the fishing year, NMFS may adjust the default shark trip limit per the inseason trip limit adjustment criteria listed in paragraph (a)(8) of this section. The default shark retention limit for the HMS Commercial Caribbean Small Boat permit is three sharks per vessel per trip.

* * * * *

(9) Notwithstanding other provisions in this subsection, possession, retention, transshipment, landing, sale, or storage of silky sharks, and scalloped, smooth, and great hammerhead sharks is prohibited on vessels issued a permit under this part that have pelagic longline gear on board or on vessels issued both an HMS Charter/Headboat permit and a commercial shark permit when tuna, swordfish or billfish are on board the vessel, offloaded from the vessel, or being offloaded from the vessel.

* * * * *

(11) No person who has been issued or should have been issued a permit under § 635.4 of this part may retain, possess or land scalloped, smooth, or great hammerhead sharks in or from the Caribbean, as defined at § 622.2 of this chapter.

* * * * *

■ 4. In Table 1 of Appendix A to Part 635, remove the term ''Oceanic whitetip, *Carcharhinus longimanus*'' under heading C and add the term ''Oceanic whitetip, *Carcharhinus longimanus*'' under heading D in alphabetical order.

The addition reads as follows:

Appendix A to Part 635—Species Tables

TABLE 1 OF APPENDIX A TO PART 635—OCEANIC SHARKS

*	*	*	*	*
D. Prohibited Sharks.				
*	*	*	*	*
Oceanic whitetip, *Carcharhinus longimanus.*				
*	*	*	*	*

* * * * *

Appendix A to Part 635 [Amended]

■ 5. In Table 2 of Appendix A to Part 635, remove the entry for ''Oceanic whitetip shark, *Carcharhinus longimanus.*''

[FR Doc. 2023–05798 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 88, No. 55

Wednesday, March 22, 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 COMMERCE

Foreign-Trade Zones Board

[B–55–2022]

Foreign-Trade Zone (FTZ) 125; Authorization of Production Activity; REV Recreation Group, Inc. d/b/a Midwest Automotive Designs; (Passenger Vehicles); Elkhart, Indiana

On November 17, 2022, REV Recreation Group, Inc. d/b/a Midwest Automotive Designs submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 125, in Elkhart, 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 72446, November 25, 2022). On March 17, 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: March 17, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–05868 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–54–2022]

Foreign-Trade Zone (FTZ) 15; Authorization of Production Activity; Moly-Cop USA, LLC; (Forged Steel Grinding Balls); Kansas City, Missouri

On November 17, 2022, Moly-Cop USA, LLC submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 15 in Kansas City, Missouri.

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 71577, November 23, 2022). On March 17, 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: March 17, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–05867 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–053, C–570–054]

Antidumping and Countervailing Duty Orders on Certain Aluminum Foil From the People's Republic of China: Preliminary Affirmative Determinations of Circumvention With Respect to the Republic of Korea and the Kingdom of Thailand

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of certain aluminum foil (aluminum foil) that were exported from the Republic of Korea (Korea) and from the Kingdom of Thailand (Thailand), using inputs (*i.e.,* aluminum foil- and sheet-gauge products) manufactured in the People's Republic of China (China), as specified below, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum foil from China.

DATES: Applicable March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney and Mark Flessner, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4475 and (202) 482–6312, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 19, 2018, Commerce published in the **Federal Register** AD and CVD *Orders* on U.S. imports of aluminum foil from China.[1] On July 11, 2022, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(b), Commerce self-initiated country-wide circumvention inquiries to determine whether imports of aluminum foil, completed in Korea and Thailand (collectively, the third countries), using inputs (*i.e.,* aluminum foil- and sheet-gauge products) manufactured in China, are circumventing the *Orders* and, accordingly, should be covered by the scope of the *Orders*.[2] On October 11, 2022, Commerce selected two respondents from each of the examined third countries as the mandatory respondents in these circumvention inquiries.[3]

On December 1, 2022, Commerce extended the deadline for issuing the preliminary determinations in these circumvention inquiries by 75 days, until February 28, 2023, and extended the deadline for issuing the final determinations by 65 days, until July 18, 2023.[4] On February 27, 2023, Commerce further extended the deadlines for issuing the preliminary and final determinations in these circumvention inquiries by an additional 15 days each, until March 15, 2023, and August 2, 2023, respectively.[5] For a complete description of the events that followed the initiation of these circumvention

[1] *See Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 83 FR 17362 (April 19, 2018) (*Aluminum Foil AD Order*); *see also Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 17360 (April 19, 2018) (*Aluminum Foil CVD Order*) (collectively, *Orders*).

[2] *See Certain Aluminum Foil from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 87 FR 42702 (July 18, 2022) (*Initiation Notice*).

[3] *See* Memorandum, ''Republic of Korea Respondent Selection,'' dated October 11, 2022; *see also* Memorandum, ''Kingdom of Thailand Respondent Identification,'' dated October 11, 2022.

[4] *See* Memorandum, ''Extension of Preliminary and Final Determinations in Circumvention Inquiries,'' dated December 1, 2022.

[5] *See* Memorandum, ''Extension of Preliminary and Final Determinations in Circumvention Inquiries,'' dated February 27, 2023.

inquiries, *see* the Preliminary Decision Memoranda.[6] The topics included in the Preliminary Decision Memoranda are identified in Appendix I to this notice. The Preliminary Decision Memoranda are public documents and are 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 Memoranda can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Orders

The merchandise covered by the *Orders* is certain aluminum foil. For a full description of the scope of the *Orders, see* the Preliminary Decision Memoranda.

Merchandise Subject to the Circumvention Inquiries

These circumvention inquiries cover aluminum foil, assembled or completed in Korea and Thailand using Chinese-origin aluminum foil and/or sheet, that is subsequently exported from Korea and Thailand to the United States (inquiry merchandise).

Methodology

Commerce made these preliminary circumvention determinations in accordance with section 781(b) of the Act and 19 CFR 351.226. For a full description of the methodology underlying the preliminary determinations, *see* the Preliminary Decision Memoranda.

Preliminary Circumvention Determinations

We preliminarily determine that aluminum foil, assembled or completed in Korea and Thailand by the entities identified in Appendix II to this notice, using Chinese-origin aluminum foil and/or sheet, that is subsequently exported from Korea or Thailand to the United States, is circumventing the *Orders.* For a detailed explanation of our determinations with respect to the entities identified in Appendix II, *see* the Preliminary Decision Memoranda and the ''Use of Adverse Facts Available'' section, below.

As detailed in the Preliminary Decision Memoranda, we also preliminarily determine that U.S. imports of inquiry merchandise exported from Korea and Thailand are circumventing the *Orders* on a country-wide basis. As a result, we preliminarily determine that this merchandise is covered by the *Orders.*

See the ''Suspension of Liquidation and Cash Deposit Requirements'' section below for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certification'' and ''Certification Requirements'' sections below for details regarding the use of certifications.

Use of Adverse Facts Available

Pursuant to section 776(a) of the Act, if necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impeded a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise available if the party fails to cooperate by acting to the best of its ability to provide requested information.

Commerce requested information from certain companies in each of the examined countries related to the quantity and value (Q&V) of their exports during the inquiry period, for purposes of respondent selection. In these Q&V questionnaires, Commerce explained that, if the company to which Commerce issued the questionnaire fails to respond to the questionnaire, or fails to provide the requested information, Commerce may find that the company failed to cooperate by not acting to the best of its ability to comply with the request for information, and may use an inference that is adverse to the company's interests in selecting from the facts otherwise available. One company to which Commerce issued the Q&V questionnaire in the Thailand inquiry (*i.e.,* Sankyu Thai Co., Ltd. (Sankyu)) received, but failed to timely respond to, the Q&V questionnaire.

Therefore, we preliminarily find that necessary information is not available on the record and that Sankyu withheld requested information, failed to provide requested information by the deadline or in the form and manner requested, and significantly impeded these inquiries. Moreover, we find that this company failed to cooperate to the best of its ability to provide the requested Q&V information because it did not provide any response to Commerce's Q&V questionnaire. Consequently, we used adverse inferences with respect to Sankyu in selecting from among the facts otherwise available on the record, pursuant to sections 776(a) and (b) of the Act. For details regarding the adverse facts available used in our decisions, *see* the Preliminary Decision Memoranda.

Based on the adverse facts available used, we preliminarily determine that Sankyu exported inquiry merchandise and that U.S. entries of that merchandise are circumventing the *Orders.* Additionally, we are preliminarily precluding Sankyu from participating in the certification programs that we are establishing for exports of aluminum foil from Thailand.

U.S. entries of inquiry merchandise made on or after July 18, 2022, that are ineligible for certification based on the failure of Sankyu to cooperate, or for other reasons, shall remain subject to suspension of liquidation until final assessment instructions on those entries are issued, whether by automatic liquidation instructions, or by instructions pursuant to the final results of an administrative review.[7] Interested parties that wish to have their suspended entries, if any, reviewed, and their ineligibility for the certification program re-evaluated, should request an administrative review of the relevant suspended entries during the next anniversary month of these *Orders* (*i.e.,* April 2023).[8]

Preliminary Determination of No Shipments

On September 1, 2022, UACJ (Thailand) Co., Ltd. (UACJ) timely filed a response to Commerce's Q&V questionnaire, in which it reported that it did not sell or export the merchandise covered by the circumvention inquiry to the United States during the period of inquiry.[9] Based on the supporting information provided by UACJ,[10] we preliminarily determine that UACJ had no shipments of inquiry merchandise to the United States during the period of inquiry.

[6] *See* Memoranda, ''Aluminum Foil from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry With Respect to the Republic of Korea,'' and ''Aluminum Foil from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry With Respect to the Kingdom of Thailand,'' each dated concurrently with, and hereby adopted by, this notice (collectively, Preliminary Decision Memoranda).

[7] Commerce continues to consider the process by which companies may demonstrate eligibility for the certification program in future segments of the aluminum foil proceedings. Commerce encourages interested parties to provide comments on this topic in their case briefs.

[8] *See* 19 CFR 351.213(b).

[9] *See* UACJ's Letter, ''Response to the Quantity and Value Questionnaire,'' dated September 1, 2022.

[10] *Id.*

Suspension of Liquidation

Based on the preliminary affirmative country-wide determinations of circumvention for Korea and Thailand, and preliminary affirmative determinations of circumvention for the companies identified in Appendix II, in accordance with 19 CFR 351.225(l)(2), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of aluminum foil, assembled or completed in Korea and Thailand using Chinese-origin aluminum foil and/or sheet, that were entered, or withdrawn from warehouse, for consumption on or after July 18, 2022, the date of publication of the initiation of these circumvention inquiries in the **Federal Register**.

For exporters of the aluminum foil that have a company-specific cash deposit rate under the *Aluminum Foil AD Order* and/or *Aluminum Foil CVD Order,* the cash deposit rate will be the company-specific AD and/or CVD cash deposit rate established for that company in the most recently completed segment of the aluminum foil proceedings. For exporters of aluminum foil that do not have a company-specific cash deposit rate under the *Aluminum Foil AD Order* and/or *Aluminum Foil CVD Order,* the cash deposit rate will be the company-specific cash deposit rate established under the *Aluminum Foil AD Order* and/or *Aluminum Foil CVD Order* for the company that exported the aluminum foil and/or sheet to the producer/exporter in Korea or Thailand that was incorporated in the imported aluminum foil. If neither the exporter of the aluminum foil from Korea or Thailand, nor the Chinese exporter of the aluminum foil and/or sheet, has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (106.09 percent), and the CVD cash deposit rate will be the ''all-others'' rate (18.56 percent). Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE) for such entries: Korea A–580–053/C–580–054; Thailand A–549–053/C–549–054. The suspension of liquidation will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix III to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to antidumping and countervailing duties.

Certifications

In order to administer the preliminary country-wide and company-specific affirmative determinations of circumvention for Korea and Thailand, Commerce has established importer and exporter certifications. These certifications will permit importers and exporters to establish that specific entries of aluminum foil from Korea and Thailand are not subject to suspension of liquidation or the collection of cash deposits pursuant to these preliminary country-wide affirmative determinations of circumvention because the merchandise meets the component content requirements described in the certification (*see* Appendix III to this notice). Because Sankyu was non-cooperative, it is not eligible to use the certification described above.[11]

Importers and exporters that claim that an entry of aluminum foil is not subject to suspension of liquidation or the collection of cash deposits based on the inputs used to manufacture such merchandise must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Korea and Thailand

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification must be completed by the party selling the aluminum foil that was manufactured in Korea or Thailand to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all aluminum foil from Korea and Thailand that was entered, or withdrawn from warehouse, for consumption during the period July 18, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the preliminary determinations in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should be completed and signed as soon as practicable, but not later than 45 days after the date of publication of these preliminary determinations in the **Federal Register**. For such entries, importers, and exporters each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof. The exporter must provide the importer with a copy of the exporter certification within 45 days of the date of publication of these preliminary determinations in the **Federal Register**.

For unliquidated entries (and entries for which liquidation has not become final) of aluminum foil that were declared as non-AD/CVD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period July 18, 2022 (the date of initiation of these circumvention inquiries) through the date of publication of these preliminary

[11] *See* Preliminary Decision Memoranda at ''Use of Facts Available with Adverse Inferences,'' and, *e.g., Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 63 FR 54672, 54675 and 54676 (October 13, 1998).

determinations in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.,* type 01 to type 03). Importers should report those AD/CVD type entries using the following third-country case numbers: Korea A–580–053/C–580–054; Thailand A–549–053/C–549–054. Other third-country case numbers may be established following the process described above. The importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer and/or exporter has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to these preliminary country-wide affirmative determinations of circumvention and the *Orders,*[12] all unliquidated entries for which these requirements were not met and to require the importer to post applicable AD and CVD cash deposits equal to the rates noted above.

Interested parties may comment in their case briefs on these certification requirements, and on the certification language contained in the appendices to this notice.

Verification

As provided in 19 CFR 351.226(f)(3), Commerce intends to verify the information relied upon in making its final determinations.

Public Comment

Case briefs or other written comments for a particular country should be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report for that country is issued. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[13] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these circumvention inquiries 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. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[14]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing for a particular country, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

U.S. International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, will notify the U.S. International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these circumvention inquiries within the *Orders.* Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(1).

Dated: March 15, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix No.	Appendix name
I	Topics Discussed in the Preliminary Decision Memoranda.
II	Companies Preliminarily Found to be Circumventing the *Orders*.
III	Certification Regarding Chinese Components.

Appendices

Appendix I

Topics Discussed in the Preliminary Decision Memoranda

Korea

I. Summary
II. Background
III. Scope of the *Orders*
IV. Merchandise Subject to Circumvention Inquiry
V. Period of the Circumvention Inquiry
VI. Non-Market Economy Methodology for Valuing Material Inputs From China
VII. Statutory and Regulatory Framework for the Circumvention Inquiry
VIII. Statutory Analysis for the Circumvention Inquiry
IX. Summary of Statutory Analysis
X. Verification
XI. Certification Process and Country-Wide Affirmation Determination of Circumvention
XII. Recommendation

Thailand

I. Summary
II. Background
III. Scope of the *Orders*
IV. Merchandise Subject to Circumvention Inquiry
V. Period of the Circumvention Inquiry
VI. Affiliation and Collapsing
VII. Non-Market Economy Methodology for Valuing Material Inputs From China
VIII. Statutory and Regulatory Framework for the Circumvention Inquiry
IX. Use of Facts Available With Adverse Inferences
X. Statutory Analysis for the Circumvention Inquiry
XI. Summary of Statutory Analysis
XII. Verification
XIII. Certification Process and Country-Wide Affirmation Determination of Circumvention
XIV. Recommendation

Appendix II

Companies Found To Be Circumventing the Orders

Korea

1. Dong-IL Aluminium Co., Ltd.
2. Lotte Aluminium Co., Ltd.
3. Dongwon Systems Corp.
4. ILJIN ALTECH Co., Ltd.
5. Korea Aluminium Co., Ltd.
6. Sam-A Aluminium Co., Ltd.

Thailand

1. Dingheng New Materials Co., Ltd.
2. Ding Li New Materials Co., Ltd.
3. Sankyu Thai Co., Ltd. (based on adverse facts available)

[12] *See Orders.*

[13] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[14] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Appendix III

Certification Regarding Chinese Components

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the aluminum foil completed in {COUNTRY} that entered under the entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter's and/or seller's identity and location.

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The aluminum foil covered by this certification was imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The aluminum foil covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products).

F. The importer certifies that the aluminum foil produced in {COUNTRY} that is covered by this certification was not manufactured using aluminum foil and/or sheet produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

G. The aluminum foil covered by this certification is not covered by the antidumping duty or countervailing duty orders on certain aluminum foil from the People's Republic of China.

H. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Producer:
Producer's Address:

I. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

J. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to information regarding the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

K. I understand that {NAME OF IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon the request of either agency.

L. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

M. I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the scope of the antidumping and countervailing duty orders on aluminum foil from China. I understand that such a finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

N. I understand that agents of the importer, such as brokers, are not permitted to make this certification.

O. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register.** If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register,** this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register.**

P. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}

{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the production and exportation of the aluminum foil for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

C. The aluminum foil covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

D. The seller certifies that the aluminum foil produced in {COUNTRY} that is covered by this certification was not manufactured using aluminum foil and/or sheet produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

E. The aluminum foil covered by this certification is not covered by the antidumping duty or countervailing duty orders on certain aluminum foil from the People's Republic of China.

F. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:
Foreign Seller's Invoice to U.S. Customer Line Item #:
Producer Name:
Producer's Address:
Producer's Invoice # to the Foreign Seller:
(*if the foreign seller and the producer are the same party, report ''NA'' here*)

G. I understand that {EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, customer specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any

litigation in United States courts regarding such entries.

H. I understand that {EXPORTING COMPANY} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon the request of either agency.

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are sales of merchandise that is covered by the scope of the antidumping and countervailing duty orders on aluminum foil from China. I understand that such a finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping and countervailing duty cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

[FR Doc. 2023–05832 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (REEEAC or the Committee) will hold a hybrid meeting, accessible in-person and online, on Wednesday April 4, 2023, at the U.S. Department of Commerce in Washington, DC. The meeting is open to the public with registration instructions provided below. The meeting has a limited number of spaces for members of the public to attend in-person. Requests to attend in-person will be considered on a first-come first-served basis.

DATES: April 4, 2023, from approximately 9:30 a.m. to 3:30 p.m. Eastern Daylight Time EDT. Members of the public wishing to participate must register in advance with Cora Dickson at the contact information below by 5:00 p.m. EDT on Friday, March 31, 2023, including any requests to make comments during the meeting or for accommodations or auxiliary aids.

ADDRESSES: To register, please contact Cora Dickson, Designated Federal Officer, Office of Energy and Environmental Industries (OEEI), Industry and Analysis, International Trade Administration, U.S. Department of Commerce at (202) 482–6083; email: *Cora.Dickson@trade.gov.* Registered participants will be emailed the login information for the meeting, which will be conducted via WebEx. Members of the public wishing to attend in-person must request in-person attendance in their registration by the firm deadline above.

FOR FURTHER INFORMATION CONTACT: Cora Dickson, Designated Federal Officer, Office of Energy and Environmental Industries (OEEI), Industry and Analysis, International Trade Administration, U.S. Department of Commerce at (202) 482–6083; email: *Cora.Dickson@trade.gov.* Registered participants joining virtually will be emailed the login information for the meeting, which will be accessible via WebEx. Registered participants joining in-person will be emailed instructions on accessing the designated meeting space.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the REEEAC pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. app.), on July 14, 2010. The REEEAC was re-chartered most recently on May 27, 2022. The REEEAC provides the Secretary of Commerce with advice from the private sector on the development and administration of programs and policies to expand the export competitiveness of U.S. renewable energy and energy efficiency products and services. More information about the REEEAC, including the list of appointed members for this charter, is published online at *http://trade.gov/reeeac.*

On April 4, 2023, the REEEAC will hold the second meeting of its current charter term. The Committee, with officials from the Department of Commerce and other agencies, will discuss major issues affecting the competitiveness of the U.S. renewable energy and energy efficiency industries, determine sub-committee structure, and provide consultation on REEEAC leadership. An agenda will be made available by April 4, 2023 upon request to Cora Dickson.

The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted but may not be possible to fill.

A limited amount of time before the close of the meeting will be available for oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two to five minutes per person (depending on number of public participants). Individuals wishing to reserve speaking time during the meeting must contact Cora Dickson using the contact information above and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant, by 5:00 p.m. EDT on Friday, March 31, 2023. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a copy of their oral comments by email to Cora Dickson for distribution to the participants in advance of the meeting.

Any member of the public may submit written comments concerning the REEEAC's affairs at any time before

or after the meeting. Comments may be submitted via email to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Cora Dickson, Designated Federal Officer, Office of Energy and Environmental Industries, U.S. Department of Commerce; *Cora.Dickson@trade.gov.* To be considered during the meeting, public comments must be transmitted to the REEEAC prior to the meeting. As such, written comments must be received no later than 5:00 p.m. EDT on Friday, March 31, 2023. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of REEEAC meeting minutes will be available within 30 days following the meeting.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2023–05878 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting of a Federal advisory committee.

SUMMARY: This notice sets forth the schedule and proposed topics for a meeting of the Environmental Technologies Trade Advisory Committee (ETTAC).

DATES: The meeting is scheduled for Tuesday, April 11, 2023 from 8:30 a.m. to 4:30 p.m. and Wednesday, April 12, 2023 from 8:45 a.m. to 3:00 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Friday, March 31, 2023.

ADDRESSES: The meeting will be held in-person in the Research Library at the U.S. Department of Commerce Herbert Clark Hoover Building, 1401 Constitution Avenue NW, Washington, DC 20230. Requests to register to participate (including to speak or for auxiliary aids) and any written comments should be submitted via email to Ms. Megan Hyndman, Office of Energy & Environmental Industries, International Trade Administration, at *Megan.Hyndman@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Megan Hyndman, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–823–1839; email: *Megan.Hyndman@trade.gov*).

SUPPLEMENTARY INFORMATION: The meeting will take place on Tuesday, April 11, 2023 from 8:30 a.m. to 4:30 p.m. and Wednesday, April 12, 2023; from 8:45 a.m. to 3:00 p.m. EDT. The general meeting is open to the public, and time will be permitted for public comment on Wednesday, April 12, 2023, from 2:15 p.m. to 2:30 p.m. EDT. Members of the public seeking to attend the meeting are required to register in advance. Those interested in attending must provide notification by Friday, March 31, 2023, at 5:00 p.m. EDT, via the contact information provided above. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at *Megan.Hyndman@trade.gov* or (202) 823–1839 no less than one week prior to the meeting. Requests received after this date will be accepted, but it may not be possible to accommodate them.

Written comments concerning ETTAC affairs are welcome any time before or after the meeting. To be considered during the meeting, written comments must be received by Friday, March 31, 2023, at 5:00 p.m. EDT to ensure transmission to the members before the meeting. Minutes will be available within 30 days of this meeting.

Topics to be considered: During the April 11–12 meeting, which is the first meeting of the current charter term, the Committee, with officials from the U.S. Department of Commerce and other agencies, will discuss major issues affecting the competitiveness of the U.S. environmental technologies industry, determine subcommittee structure, and provide consultation on ETTAC leadership. An agenda will be made available one week prior to the meeting upon request to Megan Hyndman.

Background: The ETTAC is mandated by section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, through the Secretary of Commerce, on the development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was most recently re-chartered through August 16, 2024.

Dated: March 16, 2023.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2023–05800 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC847]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, April 7, 2023, at 9:30 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/5135327761134234455.*

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Groundfish Advisory Panel will meet receive an update on progress to develop metrics and indicators for Amendment 23. They will receive an update on progress to revise the Council's ABC control rule for groundfish stocks and the plan for a facilitated process between the Scientific and Statistical Committee, Groundfish Committee, and Groundfish Plan Development Team. The Advisors will also receive an update on developing a transition plan for Atlantic cod management from the current two management units to up to five management units, including addressing allocation issues and considering potential new measures to protect Atlantic cod spawning. They will also

receive an update on developing alternatives on how to address impacts of large swings in Canadian halibut catch in U.S. halibut management. Other business may be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 17, 2023.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–05846 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC851]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Archipelagic Plan Team (APT) to discuss fishery management issues and develop recommendations for future management of fisheries in the Western Pacific Region.

DATES: The APT will meet on Wednesday and Thursday, April 19–20, 2023, between 8:30 a.m. and 4 p.m., Hawaii Standard Time (HST). For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held by web conference via WebEx. Audio and visual portions for Archipelagic Plan Team meeting can be accessed at: *https://wprfmc.webex.com/wprfmc/j.php?MTID=m68554435b127fc568572b5347941aa3a.* Web conference access information and instructions for providing public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 552–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, (808) 522–8220 (voice) or (808) 522–8226 (fax).

SUPPLEMENTARY INFORMATION: The APT meeting will be held Wednesday and Thursday, April 19–20, 2023, between 8:30 a.m. and 4 p.m., Hawaii Standard Time (HST) (7:30 a.m. to 3 p.m. Samoa Standard Time (SST); 4:30 a.m. to 12 p.m. on April 20–21, 2023, Chamorro Standard Time (ChST)). Opportunities to present oral public comment will be provided on the agenda. The order of the agenda may change, and will be announced in advance at the meeting. The meeting may run past the scheduled times noted above to complete scheduled business.

Agenda for the Archipelagic Plan Team Meeting

Wednesday, April 19, 2023, 8:30 a.m. to 4 p.m. HST

Thursday, April 20, 2023, 8:30 a.m. to 4 p.m. HST

(7:30 a.m. to 3 p.m. Samoa Standard Time (SST); 4:30 a.m. to 12 p.m. on April 20–21, 2023, Chamorro Standard Time (ChST))

1. Welcome and introductions
2. Approval of draft agenda
3. Report on previous Plan Team recommendations and Council actions
4. 2022 Annual Stock Assessment and Fishery Evaluation (SAFE) Report
5. APT Working Group updates on SAFE report improvement projects
6. APT Action Items—Refinement of uku essential fish habitat, Establishing status determination criteria for main Hawaiian Island Kona crab, Territorial bottomfish management unit species revision, Annual Catch Limit specifications (CNMI bottomfish, Kona crab, American Samoa bottomfish management unit species update).
7. Magnuson-Stevens Fishery Conservation and Management Act research priorities and cooperative research priorities updates
8. Discussion
9. Public Comment
10. Plan Team Discussion and Recommendations
11. Other Business

Special Accommodations

These meetings are accessible to people with disabilities. Please direct requests for sign language interpretation or other auxiliary aids to Kitty M. Simonds (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

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

Dated: March 17, 2023.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–05847 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC841]

Marine Mammals; File No. 27193

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that MeatEater, Inc., 1203 N. Rouse St., Suite 3E, Bozeman, MT 59715 (Responsible Party: Jason Roehrig), has applied in due form for a permit to conduct commercial and educational photography on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before April 21, 2023.

ADDRESSES: These documents are 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. 27193 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: Carrie Hubard or Sara Young, (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.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film marine mammals while documenting activities of Alaska Natives (with their permission) near Craig, Alaska. The goal is to film a harbor seal (*Phoca vitulina*) hunt and the annual herring spawning for a short film and episode of MeatEater's ''Cal in the Field,'' which will be available on their website and the MeatEater YouTube Channel. Up to 1000 harbor seals, 50 Steller sea lions of the eastern Distinct Population Segment (*Eumetopias jubatus*), and 50 killer whales (*Orcinus orca*) may be filmed from land, boats, unmanned aircraft systems, snorkelers, and pole cameras. The filmmakers will film the seal hunt and the processing of the carcass, but will not interfere or participate in the activities. During the herring spawning, native Alaskans collect the fish eggs while many marine mammals also visit the area to feed on the eggs. Filming would occur over approximately 10 days from March through July. The permit would expire in July 2025.

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: March 17, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–05866 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meetings of the Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of two meetings of the Science Advisory Board (SAB). The members will discuss issues outlined in the section on Matters to be considered.

DATES: There are two meetings: the first meeting is scheduled for April 26, 2023 from 8:30 a.m. to 5:45 p.m. Eastern Daylight Time (EDT) and April 27, 2023 from 8:30 a.m. to 12:00 p.m. (EDT). The second meeting is scheduled for July 26, 2023, from 8:00 a.m. to 5:00 p.m. Pacific Daylight Time (PDT) and July 27, 2023 from 8:00 a.m. to 12:00 p.m. (PDT) These times and the agenda topics described below are subject to change.

For the latest agenda please refer to the SAB website: *http://sab.noaa.gov/SABMeetings/.*

ADDRESSES: The April 26–27, 2023 meeting will be at the DoubleTree by Hilton Silver Spring Washington DC North, 8777 Georgia Ave., Silver Spring, MD. The link for the webinar registration for the April 26–27, 2023 meeting may be found here, when available: *https://sab.noaa.gov/index.php/current-meetings/.*

The July 26–27, 2023 meeting will be at the Southern California Coastal Water Research Project, 3535 Harbor Blvd., Suite 110, Costa Mesa, CA 92626. The link for the webinar registration for the July 26–27, 2023 meeting may be found here, when available: *https://sab.noaa.gov/index.php/current-meetings/.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: (202) 936–5847; Email: *Cynthia.Decker@noaa.gov;* or visit the SAB website at *http://sab.noaa.gov/SABMeetings/.*

SUPPLEMENTARY INFORMATION: The NOAA Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Status: The April 26–27, 2023 meeting will be open to public participation with a 15-minute public comment period at 5:30 p.m. (EDT). The July 26–27, 2023 meeting will have a 15-minute public comment period at 4:45 p.m. (PDT). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three minutes. Written comments for the April 26–27, 2023 meeting should be received by April 14, 2023 and written comments for the July 26–27, 2023 meeting should be received in the SAB Executive Director's Office by July 14, 2023 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after these dates will be distributed to the SAB, but may not be reviewed prior to the meeting date.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed to the Executive Director no later than 12 p.m. on April 9 for the April 26–27, 2023 meeting and by no later than 12 p.m. on July 9 for the July 26–27, 2023 meeting.

Matters to be Considered: The meeting on April 26–27, 2023 will include the following topics: (1) the NOAA Update, (2) NOAA Science Update, (3) Presentation of the CWG Climate and Air Quality report, (4) Presentation on the NOAA Response to Leadership in Coastal Resilience Report, (5) Presentation on the CWG Emerging Hazards and Vulnerabilities report, (6) Presentation on NOAA Response to TSTAP 1st quadrennial report, and (7) Updates from SAB Working Groups.

The July 26–27, 2023 meeting will consider updates and reports and NOAA responses on topics contained in the SAB Work Plan. Meeting materials, including work products, will be made available on the SAB website: *http://sab.noaa.gov/SABMeetings/.*

David Holst,

Chief Financial Officer and Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–05903 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC819]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Advisory Panel will hold a public webinar meeting. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Thursday, April 13, 2023, from 1 p.m. until 4 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Advisory Panel to develop a fishery performance report (FPR) for Atlantic surfclam and ocean quahog. The intent of the FPR is to facilitate a venue for structured input from the Advisory Panel for the specifications processes. The FPR will be used by the MAFMC's Scientific and Statistical Committee and Council when reviewing specifications for the 2024 fishing year.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: March 17, 2023.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–05882 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC754]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a Stock Assessment Review (STAR) Panel meeting to review the 2023 Pacific mackerel stock assessment. The meeting will be co-hosted by the NOAA Southwest Fisheries Science Center.

DATES: The meeting will be held Tuesday, April 11 through Thursday, April 13, 2023. The meeting will begin each day at 8:30 a.m. Pacific Standard Time and will continue until 5 p.m. or until business for the day has been completed.

ADDRESSES: This meeting will be held in person at the Pacific Room of the Southwest Fisheries Science Center at 8901 La Jolla Shores Dr., La Jolla, CA 92037.

The meeting will be broadcast with opportunity for remote public comment. Specific meeting information and materials will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may contact Dr. Annie Yau, (*annie.yau@noaa.gov;* (858) 546–7170).

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Jessi Doerpinghaus, Staff Officer, Pacific Council; telephone: (503) 820–2415.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to provide technical review of the Pacific mackerel stock assessment. The review panel will consist of at least three members of the Pacific Council's Scientific and Statistical Committee's Subcommittee on Coastal Pelagic Species (CPS) and at least one independent expert from the Center for Independent Experts. Representatives of the Pacific Council's CPS Management Team and the CPS Advisory Subpanel will also participate in the review as advisers.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to contact Dr. Annie Yau (*annie.yau@noaa.gov;* (858) 546–7170) at least 10 days prior to the meeting date.

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

Dated: March 17, 2023.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–05845 Filed 3–21–23; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, March 21 2023; 2 p.m.

PLACE: The meeting will be held virtually and in person at Bethesda, MD.

STATUS: Commission Meeting—Closed to the Public.

MATTERS TO BE CONSIDERED: *Briefing Matter.*

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: March 20, 2023.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2023–05991 Filed 3–20–23; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2023–OS–0025]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 22, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *https://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of Defense Education Activity (Executive Services Division), ATTN: Samuel Gotti, 4800 Mark Center Drive, Alexandria, VA 22350 or call at (571) 372–1891.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Education Activity (DoDEA) Employment Opportunities for Educators; DoDEA Forms 5010, 5011, and 5013; OMB Control Number 0704–0370.

Needs and Uses: The information collection requirement is necessary to obtain information on prospective applicants for educator positions with the Department of Defense Education Activity. The information is used to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes on candidates selected for positions. In addition, the information is used to ensure that those individuals selected for employment with the Department of Defense Education Activity possess the abilities which give promise of outstanding success under the unusual circumstances they will find working abroad. Completion of all forms is entirely voluntary.

Affected Public: Individuals and households.

Annual Burden Hours: 22,500.

Number of Respondents: 54,000.

Responses per Respondent: 1.

Annual Responses: 54,000.

Average Burden per Response: 25 minutes.

Frequency: On occasion.

The primary objective of the information collection is to screen applicants for educational qualification and employment eligibility, to obtain pertinent evaluation information about an applicant to assist management in making a hiring decision, and to obtain applicant consent to obtain personal information from former employer about applicants' employment. The forms associated with this data collection include: (1) Department of Defense Education Activity Supplemental Application for Overseas Employment (DoDEA Form 5010). The primary objective of this voluntary form is to ascertain applicants' eligibility for educator positions. (2) Department of Defense Education Activity Professional Evaluation (DoDEA Form 5011). This form is provided to officials who served in managerial and supervisory positions above the applicant as a means of verifying abilities and qualifications of applicants for educator positions. (3) Department of Defense Education Activity Verification of Professional Educator Employment for Salary Rating Purposes (DoDEA Form 5013). The purpose of this voluntary form is to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes. The paper forms and electronic data systems containing the sponsor and dependent personally identifiable information are secured in accordance with the requirements of Federal law and DoD regulations.

Dated: March 17, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–05881 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–51]

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 21–51 with attached Policy Justification and Sensitivity of Technology.

Dated: March 16, 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

August 4, 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. 21-51 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Japan for defense articles and services estimated to cost $61.5 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. 21–51

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 Japan

(ii) *Total Estimated Value:*

Major Defense Equipment *	$53.0 million
Other	$ 8.5 million
TOTAL	$61.5 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
Up to forty-four (44) Rolling Airframe Missiles (RAM) Block 2 Tactical Missiles, RIM–116C

Non-MDE:
Also included are RAM Block 2 Guidance Control Groups; RAM Guided Missile Round Pack Tri-Pack shipping and storage containers; operator manuals and technical documentation; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (JA–P–AUN)

(v) *Prior Related Cases, if any:* JA–P–ATK, JA–P–AUF

(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:* August 4, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan—RAM Block 2 Tactical Missiles

The Government of Japan has requested to buy up to forty-four (44) Rolling Airframe Missiles (RAM) Block 2 Tactical Missiles, RIM–116C. Also included are RAM Block 2 Guidance Control Groups; RAM Guided Missile Round Pack Tri-Pack shipping and storage containers; operator manuals and technical documentation; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistics and program support. The total estimated program cost is $61.5 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a major ally that is a force for political stability and economic progress in the Asia-Pacific region. It is vital to U.S. national interest to assist Japan in developing and maintaining a strong and effective self-defense capability.

The proposed will provide significantly enhanced area defense capabilities over critical East Asian and Western Pacific air and sea-lines of communication. Japan will have no difficulty absorbing these services and support 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 Raytheon Missiles and Defense, Tucson, AZ. 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 Japan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–51

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 RIM–116C Rolling Airframe Missile (RAM) is an autonomous (*i.e.,* ''fire and forget'') lightweight, supersonic, surface-to-air tactical missile for ship self-defense against current and evolving anti-ship cruise missile threats. Advanced technology in the RIM–116C includes dual-mode RF/IR (radio frequency/infrared) guidance with IR all-the-way capability for non-emitting threats.

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 Japan 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 Japan.

[FR Doc. 2023–05829 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–50]

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 21–50 with attached Policy Justification.

Dated: March 16, 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

August 4, 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. 21-50 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Japan for defense articles and services estimated to cost $134 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. 21–50

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 Japan

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0 million
Other	$134 million
TOTAL	$134 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
None

Non-MDE:
Follow-On Technical Support (FOTS) of AEGIS Class Destroyers, to include sustainment support and services; AEGIS computer software updates, system integration and testing, in-country and on-site engineering support; familiarization, sustainment, and all necessary emergent support engineering and technical support services; operational support; system overhauls; system upgrades; on-the-job practical operations and maintenance; combat systems integration; development, testing, installation of program patches and adaptation data and annual service agreements; technical inquiries by the purchaser; operation; integration; maintenance; field

service engineering; problem investigation; technical assistance; solutions to the technical problems arising from post production, testing capabilities and support, U.S. Government and contractor technical assistance, and other related elements of logistics and program support.

(iv) *Military Department:* Navy (JA–P–QHM)

(v) *Prior Related Cases, if any:* JA–P–QFA

(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:* August 4, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan—AEGIS Class Destroyer Support

The Government of Japan has requested to buy Follow-On Technical Support (FOTS) of AEGIS Class Destroyers, to include sustainment support and services; AEGIS computer software updates, system integration and testing, in-country and on-site engineering support; familiarization, sustainment, and all necessary emergent support engineering and technical support services; operational support; system overhauls; system upgrades; on-the-job practical operations and maintenance; combat systems integration; development, testing, installation of program patches and adaptation data and annual service agreements; technical inquiries by the purchaser; operation; integration; maintenance; field service engineering; problem investigation; technical assistance; solutions to the technical problems arising from post production, testing capabilities and support, U.S. Government and contractor technical assistance, and other related elements of logistics and program support. The total estimated program cost is $134 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a major ally that is a force for political stability and economic progress in the Asia-Pacific region. It is vital to U.S. national interest to assist Japan in developing and maintaining a strong and effective self-defense capability.

The proposed sale is critical to ensure Japan Maritime Self Defense Force's (JMSDF) Aegis Destroyer fleet and the Japanese Computer Program Test Sites (JCPTS) remain ready to provide capabilities in the defense of Japan. Specifically, the requested CPM services will provide JMSDF with software patches and adaptation data support that are vital to the effective and safe operations of the Aegis Combat Systems (ACS) suite. The in-country engineering and emergent support will assist JMSDF to address any malfunctions or faults that may arise with the ACS suite. Japan will have no difficulty absorbing these services and support into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation, Moorestown, NJ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the temporary assignment of five (5) U.S. Government and two (2) contractor representatives to Japan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2023–05827 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–0J]

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 with attached Transmittal 21–0J.

Dated: March 16, 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

August 4, 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. 21-0J. 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 13-40 of June 27, 2013.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal

BILLING CODE 5001–06–C

Transmittal No. 21–0J

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C)), (AECA)

(i) *Purchaser:* Government of France
(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 13–40
Date: June 27, 2013
Military Department: Air Force
(iii) *Description:* On June 27, 2013, Congress was notified by Congressional certification transmittal number 13–40 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of sixteen (16) MQ–9 Reaper Remotely Piloted Aircraft; eight (8) Mobile Ground Control Stations; forty-eight (48) Honeywell TPE331–10T Turboprop Engines (16 installed and 32 Spares); twenty-four (24) Satellite Earth Terminal Substations; forty (40) Ku Band Link-Airborne Communication Systems; forty (40) General Atomics Lynx (exportable) Synthetic Aperture Radar/Ground Moving Target Indicator (SAR/GMTI) Systems; forty (40) AN/DAS–1 Multi-Spectral Targeting System (MTS)-B; forty (40) Ground Data Terminals; forty (40) ARC–210 Radio Systems; forty (40) Embedded Global Positioning System/Inertial Navigation Systems; and forty-eight (48) AN/APX–119 and KIV–119 Identify Friend or Foe (IFF) Systems. Also included were spare and repair parts; communication, test, and support equipment; publications and technical documentation; airworthiness and maintenance support; site surveys and bed down planning; personnel training and training equipment; operational flight test; U.S. Government and contractor technical and logistics personnel services; and other related elements of logistics support. The estimated cost was $1.5 billion. Major Defense Equipment (MDE) constituted $765 million of this total.

On July 26, 2018, Congress was notified by Congressional certification transmittal number 18–0B of the retrofit of MQ–9s to become weapons capable, and the inclusion of one hundred (100) GBU–49 Enhanced Paveway dual mode

GPS and laser guided bomb kits comprised of MXU–650 Air Foil Group (AFG) and MAU–210 Enhanced Computer Control Group (ECCG); two hundred (200) FMU–152 fuzes; six hundred fifty (650) AGM–114R Hellfire missiles, with active warheads; forty-five (45) AGM–114R Hellfire training missiles, without active warheads; and six (6) Hellfire Captive Air Training Missiles. The retrofit and inclusion of MDE not enumerated in the original notification resulted in the total notified cost of MDE increasing to $975 million. The total notified case value increased to $1.71 billion.

On November 22, 2019, Congress was notified by Congressional certification transmittal number 19–0P of the retrofit of four (4) MQ–9A Block 1 to exportable MQ–9A Block 5; the addition of four (4) MQ–9A Block 5; and the addition of fourteen (14) Embedded GPS/INS (EGI) with GPS Security Devices. The retrofit and inclusion of MDE not enumerated in the original notification resulted in the total notified cost of MDE increasing to $1.055 billion. The total notified case value remained $1.71 billion.

This transmittal reports the addition of up to five (5) Mobile Ground Control Stations (MDE). Also included are additional ARC–210 Radios Systems (non-MDE). The inclusion of MDE not enumerated in the original notification will result in the total notified cost of MDE increasing to $1.0875 billion. The total notified case value will remain at $1.71 billion.

(iv) *Significance:* This notification is being provided to report the inclusion of MDE and non-MDE articles and services not previously notified. Their inclusion represents an increase in capability over what was originally notified. The proposed articles and services will provide France's MQ–9 program with the equipment necessary to support capabilities that France is already employing.

(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 NATO ally which is an important force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology:* The MQ–9A Mobile Ground Control Station (MGCS) enables a pilot to operate, in real-time, a long-endurance, medium altitude Remotely Piloted Aircraft (RPA) that can be used for surveillance, military reconnaissance, and targeting missions. A data link is maintained that uplink commands and downlink video with telemetry data. The data link can be a Line-of-Sight (LOS) C-Band communication or Beyond Line-of-Sight (BLOS) Ku-Band Satellite Communication (SATCOM). Aircraft can be handed off to other strategically placed ground control stations.

The highest level of classification of defense articles, components, and services included in this potential sale is UNCLASSIFIED.

(vii) *Date Report Delivered to Congress:* August 4, 2021

[FR Doc. 2023–05828 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0023]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service (DFAS), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the DFAS announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 22, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, ATTN: JFBB—Mr. Charles Moss, Room 1569, Cleveland, OH 44199 or phone at 216–204–4426.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Certificate for Child Annuitant; DD Form 2828; OMB Control Number 0730–0011.

Needs and Uses: The information collection requirement is necessary to support an incapacitation occurring prior to age 18. The form provides the authority for the DFAS to establish and pay a Retired Serviceman's Family Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) annuity to the incapacitated individual.

Affected Public: Individuals and households.

Annual Burden Hours: 480.

Number of Respondents: 240.

Responses per Respondent: 1.

Annual Responses: 240.

Average Burden per Response: 2 hours.

Frequency: On occasion.

The form will be used by the DFAS in order to establish and start the annuity for a potential child annuitant. When the form is completed, it will serve as a medical report to substantiate a child's incapacity. The law requires that an unmarried child who is incapacitated must provide a current certified medical report. When the incapacity is not permanent, a medical certification must be received by DFAS every two years in order for the child to continue receiving annuity payments.

Dated: March 17, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–05880 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–49]

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 21–49 with attached Policy Justification.

Dated: March 16, 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

August 3, 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. 21-49 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 $270 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. 21–49

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	$270 million
TOTAL	$270 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 and contractor engineering, technical, and logistics support services for F–16 Aircraft Structural Integrity Program (ASIP), F–16 Aircrew Training Device (ATD), Low Altitude Targeting and Infrared for Night (LANTIRN), and Reconnaissance (RECCE) Pods support programs; aircraft classified and unclassified aircraft software and software support; Multifunctional Information Distribution System (MIDS) software support; Joint Mission Planning Software (JMPS) support; participation in Electronic Combat International Security Assistance Program (ECISAP), International Engine Management Program (IEMP), and technical coordination groups; other aircraft and engine hardware and software modifications and support; spare and repair/return parts and equipment; personnel training and training equipment; publications, manuals, and technical documentation; and other related elements of aircraft maintenance and program support.

(iv) *Military Department:* Air Force (GR–D–QAG)

(v) *Prior Related Cases, if any:* GR–D–QCH, GR–D–SNX, GR–D–SNY

(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:* August 3, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece—F–16 Sustainment Materiel and Services

The Government of Greece has requested to buy U.S. Government and contractor engineering, technical, and logistics support services for F–16 Aircraft Structural Integrity Program (ASIP), F–16 Aircrew Training Device (ATD), Low Altitude Targeting and Infrared for Night (LANTIRN), and Reconnaissance (RECCE) Pods support programs; aircraft classified and unclassified aircraft software and software support; Multifunctional Information Distribution System (MIDS) software support; Joint Mission Planning Software (JMPS) support; participation in Electronic Combat International Security Assistance Program (ECISAP), International Engine Management Program (IEMP), and technical coordination groups; other aircraft and engine hardware and software modifications and support; spare and repair/return parts and equipment; personnel training and training equipment; publications, manuals, and technical documentation; and other related elements of aircraft maintenance and program support. The total estimated value is $270 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 its F–16 program, encompassing aspects of aircrew training and aircraft maintenance. The ability to provide this level of support to the F–16 program will increase its inter-operability with NATO forces and enhance its ability to provide for security of its borders. Greece has demonstrated a continued commitment to modernizing its military and will have no difficultly absorbing this additional sustainment support into its armed forces.

The proposed sale of these services will not alter the basic military balance in the region.

The principal contractors for this proposed sale are L3/Harris International, Melbourne, Florida; Lockheed-Martin Aero Corporation, Fort Worth, Texas; Collins Aerospace, Charlotte, North Carolina; Northrop Grumman Corporation, Falls Church, Virginia; Raytheon Company, Waltham, Massachusetts; and Atec, Incorporated, Houston, Texas. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor(s).

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. 2023–05826 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–44]

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 21–44 with attached Policy Justification and Sensitivity of Technology.

Dated: March 16, 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

August 4, 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. 21-44, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Taipei Economic and Cultural Representative Office in the United States (TECRO) for defense articles and services estimated to cost $750 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. 21–44

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:* Taipei Economic and Cultural Representative Office in the United States (TECRO)

(ii) *Total Estimated Value:*

Major Defense Equipment *	$635 million
Other	$115 million
TOTAL	$750 million

Funding Source: National Funds.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Forty (40) 155mm M109A6 Medium Self-Propelled Howitzer Systems

Twenty (20) M992A2 Field Artillery Ammunition Support Vehicle (FAASV)

One (1) Advanced Field Artillery Tactical Data System (AFATDS)

Five (5) M88A2 Hercules Vehicles

Five (5) M2 Chrysler Mount .50 Caliber Machine Guns

One thousand six hundred ninety-eight (1,698) Multi-Option, Precision Guidance Kits (PGK)

Non-MDE:

Also included are M109A6/M992A2 overhaul, conversion and refurbishment services; Special Tools and Test Equipment (STTE); Defense Advanced Global Positioning System (GPS) Receiver; AN/VVS(2) Night Driver's Viewer (NDV); Dynamic Reference Unit Hybrid Replacement Inertial Navigation System; Basic Issue Items (BII); Program Management Support; Verification Testing; System Technical Support; Transportation; Spare and repair parts; communication support equipment; communication equipment integration; tools and test equipment; personnel training and training equipment; repair and return program; camouflage nets; Components of End Items (COEI), Additional Authorized List (AAL), Technical Manuals; Quality Assurance Team (QAT); 155mm M232A1 Propelling Charges, M82 Percussion Primer Fuzes, support and test equipment, integration and test support, software delivery, publications and technical documentation. U.S. Government and contractor engineering; technical and logistics support services; storage; and other related elements of logistics and program support; OCONUS Deprocessing Service; Export Single Channel Ground and Airborne Radio System (SINCGARS); OCONUS Contractor provided Training, Field Service Representatives (FSR); M2A1 .50 Cal MG; MK93 MOD 2 Mount Machine Gun; M239 Smoke Grenade Launchers, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Army (TW–B–ZDI)

(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:* August 4, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States (TECRO)—155mm M109A6 Paladin Medium Self-Propelled Howitzer System

TECRO has requested to buy forty (40) 155mm M109A6 Medium Self-Propelled Howitzer Systems; twenty (20) M992A2 Field Artillery Ammunition Support Vehicles (FAASV); one (1) Advanced Field Artillery Tactical Data System (AFATDS); five (5) M88A2 Hercules vehicles; five (5) M2 Chrysler Mount .50 caliber machine guns; and one thousand six hundred ninety-eight (1,698) multi-option, Precision Guidance Kits (PGK). Also included are M109A6/M992A2 overhaul, conversion and refurbishment services; Special Tools and Test Equipment (STTE); Defense Advanced Global Positioning System (GPS) Receiver; AN/VVS(2) Night Driver's Viewer (NDV); Dynamic Reference Unit Hybrid Replacement Inertial Navigation System; Basic Issue Items (BII); Program Management Support; Verification Testing; System Technical Support; Transportation; Spare and repair parts; communication support equipment; communication equipment integration; tools and test equipment; personnel training and training equipment; repair and return program; camouflage nets; Components of End Items (COEI), Additional Authorized List (AAL), Technical Manuals; Quality Assurance Team (QAT); 155mm M232A1 Propelling Charges, M82 Percussion Primer Fuzes, support and test equipment, integration and test support, software delivery, publications and technical documentation. U.S. Government and contractor engineering; technical and logistics support services; storage; and other related elements of logistics and program support; OCONUS Deprocessing Service; Export Single Channel Ground and Airborne Radio System (SINCGARS); OCONUS Contractor provided Training, Field Service Representatives (FSR); M2A1 .50 Cal MG; MK93 MOD 2 Mount Machine Gun; M239 Smoke Grenade Launchers, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support. The total estimated program cost is $750 million.

This proposed sale is consistent with U.S. law and policy as expressed in Public Law 96–8.

This proposed sale serves U.S. national, economic, and security interests by supporting the recipient's continuing efforts to modernize its armed forces and to maintain a credible defensive capability. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance, economic and progress in the region.

This proposed sale of M109A6 SPH will contribute to the modernization of the recipient's self-propelled howitzer fleet, enhancing its ability to meet current and future threats. These systems will contribute to the recipient's goal of updating its military capability while further enhancing interoperability with the United States and other allies. The recipient will have no difficulty absorbing these systems 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 for the Self-Propelled Howitzer Systems will be BAE Systems, Anniston, AL, and Elgin, OK; M992A2 FAASV, Anniston Army Depot (ANAD), Bynum, AL; and M88A2 recovery vehicles, BAE, York, PA. The purchaser has requested offsets. At this time, agreements are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale will not require the permanent assignment of any additional U.S. Government or contractor representatives to recipient. Support teams will travel to recipient on a temporary basis.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–44

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 Paladin M109A6 howitzer is the fifth product improvement to the original M109 self-propelled howitzer. It features improvements in the areas of survivability; reliability, availability, and maintainability (RAM); responsiveness; and terminal effects. The M109A6 is an armored, full tracked howitzer carrying 37 complete conventional rounds and two Copperhead projectiles and is operated by a crew of four. It is designed with a new turret structure that facilitates integration of the various turret improvements and vulnerability reduction measures. It improves overall crew compartment layout and space. The howitzer can travel at a maximum speed of 38 miles per hour and has a maximum cruising range of 186 miles.

The M109A6 can operate independently, on the move, it can receive a fire mission, compute firing data, select and take up its firing position, automatically unlock and point its cannon, fire and move—all without external technical assistance. Firing the first round following a move in under 60 seconds, a ''shoot and scoot'' capability protects the crew from counterbattery fire. The M109A6 is capable of firing up to four rounds per minute to ranges of 30 kilometers. The M109A6 features increased survivability characteristics such as day/night operability, Nuclear, Biological, Chemical (NBC) protection with climate control and secure voice and digital communications. The crew remains in the vehicle throughout the mission.

2. The Inertial Navigation Unit (INU) component provides the vehicle with its own position location utilizing sensors that continuously calculates its direction and velocity without the continuous dependency of a GPS; the INU receives GPS data from an external GPS receiver as an input when available to provide better precision. The INU allows the vehicle to more precisely calculate its position to other components in the vehicle to improve its functions and safety of use; these functions include movement and maneuver of the vehicle, movement of the turret, and pointing of the gun tube.

3. The Electronic Fire Control System (EFCS) commonly referred to as the Paladin Fire Control System (PFCS) is the major change for the Paladin M109A6 Howitzer from the manual fire control system used on the M109A5. This gives the howitzer the ability to operate over a widely dispersed area and to move and emplace using the on board fire control navigation and GPS system. The M109A6 can move and position within an assigned position area, process technical firing data, and fire a mission without relying on aiming circles and wire lines. The M109A6 can change position more frequently, an advantage against enemy fire. Such advancements give new meaning to the artillery's ability to move, shoot and communicate. In addition, the EFCS with embedded electronic diagnostics improves maintenance and repair functions by assisting in pinpointing faults.

4. The Defense Advanced GPS (Global Positioning System) Receiver (DAGR) is a lightweight (less than 2 pounds) hand-held or host platform-mounted, dual frequency (L1/L2), Selective Availability Anti-Spoofing Module (SAASM) based, Precise Positioning Service (PPS) device that receives and decodes the L1 and L2 signals-in-space which are transmitted by the NAVSTAR GPS satellite constellation. The DAGR provides real-time positioning, velocity (ground speed), navigation, and timing (PVNT) information, in stand-alone (dismounted) and mounted (ground facilities, sea, air, and land vehicles) configurations. The DAGR can support missions involving land-based war-fighting and non-war fighting operations. The DAGR can also be used as a secondary or supplemental aid to aviation-based missions which involve operations in low-dynamic aircraft, and as an aid to navigation in water-borne operations.

5. The M1156 Precision Guidance Kit (PGK) is a Global Positioning System (GPS) Guidance Kit with fuzing functions for the M795 and M549A1 155mm High Explosive (HE) Artillery Projectiles. The PGK corrects the ballistic trajectory of the projectile to reduce delivery errors and thus improves projectile accuracy. The PGK will effectively reduce target delivery error of conventional artillery munitions and reduce the number of projectiles required to execute a fire mission.

6. The 155mm M232A1 Propelling Charge (DODIC DA13), will be used in M109 series howitzers. The Modular Artillery Charge System (MACS) consists of two propelling charge module types, the M231 and the M232/M232A1, and their associated packaging. The system is compatible with all current and planned 155mm field artillery weapons.

7. The M82 Percussion Primer (DODIC N523) will be used in M109 series howitzers.

8. The International Field Artillery Tactical Data System is the international export version of the Army's Advanced Field Artillery Tactical Data System (AFATDS). It provides networked and fully automated support for the planning, coordination, control, and execution of fires and effects such as mortars, field artillery, rockets and missiles, and close air support. International versions are developed for each customer unique to the weapon and targeting systems in their inventory.

9. Field Artillery Ammunition Support Vehicle (FAASV) M992A2 this ammunition vehicle has no turret, but has a taller superstructure to store 95 rounds with a corresponding number of powders and primers. Until recently, much of the remaining internal crew space was taken up by a hydraulically powered conveyor system designed to allow the quick uploading of rounds or their transfer to the M109-series howitzer.

10. Heavy Equipment Recovery Combat Utility Lift and Evacuation System (HERCULES) Improved Recovery Vehicle—M88A2 recovers tanks mired to different depths removes and replaces tank turrets and power packs, and uprights overturned heavy combat vehicles. The main winch of the M88A2 is capable of a 70-ton, single-line recovery, allowing the HERCULES to provide recovery of the 70-Ton M1A2 Abrams Tank.

11. The A-frame boom and hoist winch of the M88A2 can lift 35 tons. The spade can be used to anchor the vehicle when using the main winch and can be used for light earth moving to prepare a recovery area. The M88A2 employs an auxiliary power unit to provide auxiliary electrical and hydraulic power when the main engine is not in operation. It can also be used to slave start other vehicles, as well as a means to refuel or defuel vehicles. The M88A2 can refuel Abrams tanks from its own fuel tank.

12. The Browning M2 is an air-cooled, belt-fed machine gun. The M2 fires from a closed bolt, operated on the short recoil principle. The M2 fires the .50 BMG cartridge, which offers long range, accuracy, and immense stopping power.

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 hardware and software elements, the information could be used to develop countermeasures or equivalent systems, which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

15. A determination has been made that the recipient 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 have been authorized for release and export to the recipient.

[FR Doc. 2023–05825 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2023–OS–0024]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 22, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *https://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Military Community Advocacy, 4800 Mark Center Drive, Suite 3G15, Alexandria, VA 22350, Lisa Eaffaldano, (703) 474–8774.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Independent Analysis and Recommendations on Domestic Abuse in the Armed Forces: Field Research; OMB Control Number: 0704–DAFR.

Needs and Uses: A comprehensive, independent analysis on the military-specific risk factors for domestic abuse (DA) and the best approaches across the coordinated community response system to mitigate those factors has never been conducted and is necessary to inform sustainable solutions to decrease incidents and prevent violence before it occurs. This project is required by the FY21 NDAA, Section 549C, and will support (a) the programmatic needs of the sponsoring office—the Family Advocacy Program within the Military Community Advocacy Directorate in Military Community and Family Policy, (b) Congressional requirements per Section 549C of the FY21 National Defense Authorization Act, (c) the current administration's priority to address gender-based violence, and (d) implementation of some recommendations contained in the U.S. Government Accountability Office Report 21–289 (May 2021). The overall project is wide ranging, from an epidemiological analysis to predict stages of military service where risk is highest for domestic violence, to an analysis of age-appropriate and positively focused prevention training for school-aged children, to assessing whether prevention would be enhanced by raising the disposition authority for domestic violence offenses.

Affected Public: Individuals and households.

Annual Burden Hours: 560.

Number of Respondents: 560.

Responses per Respondent: 1.

Annual Responses: 560.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: March 17, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–05884 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2023–HQ–0010]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Navy announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 22, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to OPNAV N1, Department of the Navy, 701 Courthouse Road, Arlington, VA 22204, ATTN: Richard Linton, Ph.D. or call 703–604–6058.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Navy Health of the Force Survey; OMB Control Number 0703–0079.

Needs and Uses: The Navy Health of the Force Survey is a strategic level engagement survey of the Navy Active Duty population that addresses core measures relating to the health of the force, and addresses emergent issues of interest to Navy leadership. The core survey questions support trend analysis on the following metrics: Sailor job satisfaction, retention plans, and influences to stay or leave; Health of the Force Metrics: Connectedness, cohesion, organizational commitment, job satisfaction, and inclusion; and diversity, equity, and inclusion in the Navy. The survey alternates between addressing issues pertaining to the work environment (odd years) and issues pertaining to programs and policies that support Sailors personal lives (even years). The survey is being revised in 2023 to include Navy Reserve Personnel and add questions related to their experience. Additionally, new questions relating to trust, work/life balance, safe work environments, and Morale, Welfare, and Recreation support services. The results of the annual engagement survey inform the Navy's Health of the Force Report to Congress, congressional testimony, and support program and policy assessments.

Affected Public: Individuals or households.

Annual Burden Hours: 14,583.33.

Number of Respondents: 35,000.

Responses per Respondent: 1.

Annual Responses: 35,000.

Average Burden per Response: 25 minutes.

Frequency: Annually.

Dated: March 17, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–05875 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy, Office of Science.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open virtual meeting of the Basic Energy Sciences Advisory Committee (BESAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, April 25, 2023; 11:00 a.m. to 5:00 p.m.

ADDRESSES: This meeting is open to the public. This meeting will be held virtually via Zoom. Information to participate can be found on the website closer to the meeting date at *https://science.osti.gov/bes/besac/Meetings.*

FOR FURTHER INFORMATION CONTACT: Kerry Hochberger; Office of Basic Energy Sciences; U.S. Department of Energy; Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (301) 903–7661 or Email: *kerry.hochberger@science.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of this Board is to make recommendations to DOE–SC concerning the basic energy sciences research program.

Tentative Agenda:

- Call to Order, Introductions, Review of the Agenda
- Welcome From the Office of Science
- News From the Office of Basic Energy Sciences
- News on the Materials Sciences and Engineering Committee of Visitors
- Panel Discussion: *Fundamental Research for Microelectronics*
- Updates on the 2023 BESAC Charge
- Panel Discussion: *Nanoscale Science Research Centers (NSRCs)*
- Public Comment
- Adjourn

Breaks taken as appropriate.

Public Participation: The meeting is open to the public. A webcast of this meeting will be available. Please check the website below for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Kerry Hochberger at *kerry.hochberger@science.doe.gov.* You must request an oral statement at least five business days before the meeting. Reasonable provisions will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule. Information about the committee can be found at: *https://science.osti.gov/bes/besac.*

Minutes: The minutes of this meeting will be available for review on the U.S. Department of Energy's Office of Basic Energy Sciences website at: *https://science.osti.gov/bes/besac/Meetings.*

Signed in Washington, DC, on March 17, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–05886 Filed 3–21–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Guidance and Application for Hydroelectric Efficiency Improvement Incentives

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of availability of guidance and open application period.

SUMMARY: The Department of Energy (DOE) Grid Deployment Office (GDO) gives notice of availability of guidance for the Hydroelectric Efficiency Improvement Incentives as authorized through the Energy Policy Act of 2005 (EPAct 2005), as amended by the Infrastructure Investment and Jobs Act (IIJA) of 2021, and the opening of the 2023 application period. The guidance describes the hydroelectric efficiency improvement incentives payment requirements, including application requirements, that qualified hydroelectric facilities must provide DOE when applying for hydroelectric efficiency improvement incentives.

DATES: DOE is currently accepting applications from March 22, 2023 through 5:00 p.m. ET, June 20, 2023. Applications must be submitted to the Clean Energy Infrastructure Funding Opportunity eXCHANGE located at *https://infrastructure-exchange.energy.gov/* by 5:00 p.m. ET, June 20, 2023, or they will not be considered timely filed for calendar year 2023 incentive payments.

ADDRESSES: Interested parties are to submit applications electronically to the Clean Energy Infrastructure Funding Opportunity eXCHANGE, located at *https://infrastructure-exchange.energy.gov/.* The guidance is available via the GDO website *https://www.energy.gov/gdo/section-243-hydroelectric-efficiency-improvement-incentives-program.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Ms. Luciana Ciocci, U.S. Department of Energy, Grid Deployment Office, 1000 Independence Ave. SW, Washington, DC 20585, (202) 480–5768 or by email at *hydroelectricincentives@hq.doe.gov.* Further instruction can be found in the Guidance posted at *https://www.energy.gov/gdo/section-243-hydroelectric-efficiency-improvement-incentives-program. Electronic*

communications are recommended for correspondence.

SUPPLEMENTARY INFORMATION: The Grid Deployment Office provides notice of availability of guidance and the opening of the 2023 application period pertaining to section 243 of EPAct 2005, Hydroelectric Efficiency Improvement Incentives, as amended by section 40332 IIJA of 2021, Public Law 117–58.[1] As initially announced in the February 2023 notice of intent, the guidance sets out the eligibility requirements, general application requirements and process, procedures for processing applications, allocation of funding for eligible projects in the event of oversubscription, and funding restrictions.[2]

The guidance document describes the application process and the information necessary for the Secretary of Energy to make incentive payments to the owners and authorized operators of qualified hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least three percent pursuant to section 243 of EPAct 2005.[3]

Under the statute, the incentive payments include the following limitations: an incentive payment shall not exceed 30 percent of the costs of the applicable capital improvement(s); no more than one incentive payment may be made to a single qualified hydroelectric facility in any fiscal year; and that shall not exceed $5,000,000.[4]

The guidance is available at: *https://www.energy.gov/gdo/section-243-hydroelectric-efficiency-improvement-incentives-program.* Each application will be reviewed based on the guidance. Interested parties are to submit applications electronically to the Clean Energy Infrastructure Funding Opportunity eXCHANGE, located at *https://infrastructure-exchange.energy.gov/.*

When submitting an application to DOE for section 243 of EPAct 2005, Hydroelectric Efficiency Improvement Incentives, it is recommended that applicants carefully read and review the completed contents of the guidance for this process. When reviewing applications, DOE may corroborate the information provided with information that DOE finds through FERC e-filings and other due diligence measures carried out by reviewing officials. DOE may require the applicant to conduct and submit an independent audit at its own expense, or DOE may conduct an audit to verify efficiency improvements claimed by the qualified hydroelectric facility.

A public webinar will be held in the coming weeks to provide clarity on the guidance document, as necessary. The webinar will be held in a question-and-answer format with registration details available at *https://www.energy.gov/gdo/section-243-hydroelectric-efficiency-improvement-incentives-program.*

Signing Authority

This document of the Department of Energy was signed on March 16, 2023, by Maria Duaime Robinson, Director of the Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 16, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–05759 Filed 3–21–23; 8:45 am]

BILLING CODE 6450–01–P

[1] Public Law 117–58, div. D, title III, § 40332(a).

[2] 88 FR 8837 (Feb. 10, 2023).

[3] 42 U.S.C. 15882(a).

[4] 42 U.S.C. 15882(b).

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

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), Hanford. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 19, 2023; 9 a.m.–4 p.m. PDT; Thursday, April 20, 2023; 9 a.m.–3 p.m. PDT.

ADDRESSES: This hybrid meeting will be in-person at the Red Lion Hotel, Yakima Center (address below) and virtually. To receive the virtual access information and call-in number, please contact the Federal Coordinator, Gary Younger, at the telephone number or email listed below at least five days prior to the meeting.

The meeting will be held, strictly following COVID–19 precautionary measures, at: Red Lion Hotel, Yakima Center, 607 East Yakima Avenue, Yakima, WA 98908.

Attendees should check with the Federal Coordinator (below) for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Gary Younger, Federal Coordinator, U.S. Department of Energy, Hanford Office of Communications, Richland Operations Office, P.O. Box 550, Richland, WA 99354; Phone: (509) 372–0923; or Email: *gary.younger@rl.doe.gov.*

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:

- Tri-Party Agreement Agencies' Updates
- Discussion of Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, 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 Gary Younger at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or within five business days after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gary Younger. 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 make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available at the following website: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Signed in Washington, DC, on March 16, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–05841 Filed 3–21–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

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), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 19, 2023; 4 p.m.–8 p.m. PDT.

The opportunity for public comment is at 4:10 p.m. PDT.

This time is subject to change; please contact the Nevada Site Specific Advisory Board (NSSAB) Administrator (below) for confirmation of time prior to the meeting.

ADDRESSES: This meeting will be open to the public in-person at the Mesquite City Hall (address below) or virtually via Microsoft Teams. To attend virtually, please contact Barbara Ulmer, NSSAB Administrator, by email *nssab@emcbc.doe.gov* or phone (702) 523–0894, no later than 4 p.m. PDT on Monday, April 17, 2023.

Mesquite City Hall, 10 East Mesquite Boulevard, Mesquite, NV 89027.

Attendees should check the website listed below for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, NSSAB Administrator, by phone: (702) 523–0894 or email: *nssab@emcbc.doe.gov* or visit the Board's internet homepage at *www.nnss.gov/NSSAB/.*

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:

1. DOE–EM Work Plan Presentations
2. Public Comment Period
3. Updates from DOE Deputy Designated Federal Officer
4. Updates from Liaisons

Public Participation: The in-person/online virtual hybrid meeting is open to the public either in-person at the Mesquite City Hall or via Microsoft Teams. To sign-up for public comment, please contact the NSSAB Administrator (above) no later than 4 p.m. PDT on Monday, April 17, 2023. In addition to participation in the live public comment session identified above, written statements may be filed with the Board either before or within seven days after the meeting by sending them to the NSSAB Administrator at the aforementioned email address. Written public comment received prior to the meeting will be read into the record. 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 make public comments can do so in 2-minute segments for the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing or calling Barbara Ulmer, NSSAB Administrator, U.S. Department of Energy, EM Nevada Program, 100 North City Parkway, Suite 1750, Las Vegas, NV 89106; Phone: (702) 523–0894. Minutes will also be available at the following website: *http://www.nnss.gov/nssab/pages/MM_FY23.html.*

Signed in Washington, DC, on March 16, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–05842 Filed 3–21–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Guidance and Application for Hydroelectric Production Incentives

AGENCY: Hydroelectric Incentives Program, Grid Deployment Office, Department of Energy.

ACTION: Notice of availability of guidance and open application period.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of updated guidance for the Energy Policy Act of 2005 Hydroelectric Production Incentives. The guidance describes the hydroelectric production incentive payment requirements and explains the type of information that owners or authorized operators of qualified hydroelectric facilities must provide DOE when applying for hydroelectric production incentive payments. The hydroelectric production incentive payments are a benefit available for electric energy generated and sold for a specified 10-year period as authorized under the Energy Policy Act of 2005. In the Infrastructure Investment and Jobs Act, DOE received $125 million to support this hydroelectric production incentive. At this time, DOE is only accepting applications from owners and authorized operators of qualified hydroelectric facilities for hydroelectricity generated and sold in calendar years 2021 and 2022.

DATES: DOE is currently accepting applications from March 22, 2023 through May 8, 2023. Applications must be submitted to the Clean Energy Infrastructure Funding Opportunity Exchange, *https://infrastructure-exchange.energy.gov/* by no later than 5 p.m. ET, May 8, 2023, or they will not be considered timely filed for calendar year 2021 and 2022 incentive payments.

ADDRESSES: Interested parties are to submit applications electronically to the Clean Energy Infrastructure Funding Opportunity Exchange, *https://infrastructure-exchange.energy.gov/.* The guidance accompanying this solicitation is available at: *www.energy.gov/gdo/section-242-hydroelectric-production-incentive-program.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Madden Sciubba, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, (240) 798–1195 or by email at *hydroelectricincentives@hq.doe.gov.* Additional information can be found in the guidance posted at *www.energy.gov/gdo/section-242-hydroelectric-production-incentive-program.* Electronic communications are recommended for correspondence.

SUPPLEMENTARY INFORMATION: In section 242 of the Energy Policy Act of 2005 (EPAct 2005; Pub. L. 109–58), as amended, Congress established a program to support the expansion of hydropower energy development at existing dams and impoundments through an incentive payment procedure for eligible facilities (section 242), codified at 42 U.S.C. 15881. Congress amended section 242 in the Energy Act of 2020 (Pub. L. 116–260) by expanding the eligibility window and amending the definition of a qualified hydroelectric facility. The Infrastructure Investment and Jobs Act of 2021 (Pub. L. 117–58) made further amendments to section 242. For this solicitation, DOE is accepting applications for payments resulting from hydroelectricity generated and sold in calendar years 2021 and 2022.

Section 242 directs the Secretary to provide incentive payments to the owners or authorized operators of hydroelectric generation facilities in accordance with specific statutory

instructions. The Secretary is directed to issue incentive payments, subject to the availability of appropriations, for hydroelectric energy generated and sold by a qualified hydroelectric facility during the incentive period. Incentive payments may only be made upon receipt by the Secretary of an incentive payment application that demonstrates that the applicant is eligible to receive such payment and satisfies other requirements as the Secretary deems necessary.[1] In the Infrastructure Investment and Jobs Act, Congress provided $125 million for this purpose.

The Secretary may only issue payments for the electric energy generated and sold by a qualified hydroelectric facility that began operations during the period of 22 fiscal years beginning after the first fiscal year occurring after the program's enactment, August 8, 2005.[2] A qualified hydroelectric facility may receive payments for a period of 10 consecutive fiscal years, known as the incentive period, which begins with the fiscal year that electric energy generated from the facility is first eligible for such payments.[3] Payments made by the Secretary are based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. The amount of such payment shall be 1.8 cents per kilowatt hour (as adjusted by the Internal Revenue Code of 1986), subject to the availability of appropriations, except that no facility may receive more than $1,000,000 in one calendar year.[4] No payments will be made after the expiration of the period of 32 fiscal years beginning with the first full fiscal year occurring after August 8, 2005, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.[5] The Secretary is authorized to carry out the purposes of this program for each of the fiscal years of 2021 through 2036.[6]

In section 242, Congress defines a qualified hydroelectric facility to mean ''a turbine or other generating device owned or solely operated by a non-Federal entity—(A) that generates hydroelectric energy for sale; and (B)(i) that is added to an existing dam or conduit; or (ii)(I) that has generating capacity of not more than 20 megawatts; (II) for which the non-Federal entity has received a construction authorization from the Federal Energy Regulatory Commission, if applicable; and (III) that is constructed in an area in which there is inadequate electric service, as determined by the Secretary, including by taking into consideration—(aa) access to the electric grid; (bb) the frequency of electric outages; or (cc) the affordability of electricity.''[7]

Additionally, Congress defined an existing dam or conduit to mean any dam or conduit constructed and completed before August 8, 2005 and does not require any construction or enlargement of impoundment or diversion structures, other than repair or reconstruction, in connection with the installation of a turbine or other generating device.[8] The term conduit maintains the same meaning here as when used in section 30(a)(2) of the Federal Power Act (16 U.S.C. 823a(a)(3)(A)).[9]

Further, these defined terms apply without regard to the hydroelectric kilowatt capacity of the facility, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date August 8, 2005.[10] Recently, DOE clarified its guidance for the Energy Policy Act of 2005 section 242 incentive. These updates include clarifying the definition of a qualified hydroelectric facility and changes to the submission process. This guidance applies to generation in calendar years 2021 and 2022 and is available at: *www.energy.gov/gdo/section-242-hydroelectric-production-incentive-program.* Each application will be reviewed based on the contents of the guidance.

DOE notes that applicants that received incentive payments for prior calendar years must submit a new and complete application addressing all eligibility requirements for hydroelectricity generated and sold in calendar years 2021 and 2022. DOE will not consider previously submitted application materials. Applications that refer to previous application materials or statements in lieu of submitting current information will not be considered. As authorized under section 242 of EPAct 2005, and as explained in the guidance, DOE also notes that it will only accept applications from qualified hydroelectric facilities that began operations at an existing dam or conduit between October 1, 2005, and September 30, 2027.

When submitting information to DOE for the section 242 incentive, it is recommended that applicants carefully read and review the completed content of the guidance for this process. When reviewing applications, DOE may corroborate the information provided with information that DOE finds through FERC e-filings, contact with power off-taker, and other due diligence measure carried out by reviewing officials. DOE may require the applicant to conduct and submit an independent audit at its own expense, or DOE may conduct an audit to verify the number of kilowatt-hours claimed to have been generated and sold by the qualified hydroelectric facility and for which an incentive payment has been requested or made.

Signing Authority

This document of the Department of Energy was signed on March 16, 2023, by Maria Duaime Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 16, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–05758 Filed 3–21–23; 8:45 am]

BILLING CODE 6450–01–P

[1] 42 U.S.C. 15881(a).

[2] 42 U.S.C. 15881(c).

[3] 42 U.S.C. 15881(d).

[4] 42 U.S.C. 15881(e).

[5] 42 U.S.C. 15881(f).

[6] 42 U.S.C. 15881(g).

[7] 42 U.S.C. 15881(b)(1).

[8] 42 U.S.C. 15881(b)(2).

[9] 42 U.S.C. 15881(b)(3).

[10] 42 U.S.C. 15881(b).

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

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), Northern New Mexico. The Federal Advisory Committee Act requires that

public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 19, 2023; 1 p.m. to 5 p.m. MDT.

ADDRESSES: This hybrid meeting will be open to the public virtually via WebEx only. To attend virtually, please contact the Northern New Mexico Citizens Advisory Board (NNMCAB) Executive Director (below) no later than 5 p.m. MDT on Friday, April 14, 2023.

Board members, Department of Energy (DOE) representatives, agency liaisons, and Board support staff will participate in-person, following COVID–19 and influenza precautionary measures, at: Cities of Gold Hotel, Tribal Room, 10 Cities of Gold Road, Santa Fe, NM 87506.

Attendees should check with the NNMCAB Executive Director (below) for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Menice B. Santistevan, NNMCAB Executive Director, by Phone: (505) 699–0631 or Email: *menice.santistevan@em.doe.gov.*

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:

- DOE Environmental Management Presentation
- Agency Updates

Public Participation: The in-person/online virtual hybrid meeting is open to the public virtually via WebEx only. Written statements may be filed with the Board no later than 5 p.m. MDT on Friday, April 14, 2023, or within seven days after the meeting by sending them to the NNMCAB Executive Director at the aforementioned email address. Written public comments received prior to the meeting will be read into the record. 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 public comments should follow as directed above.

Minutes: Minutes will be available by emailing or calling Menice Santistevan, NNMCAB Executive Director, at *menice.santistevan@em.doe.gov* or at (505) 699–0631.

Signed in Washington, DC, on March 16, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–05843 Filed 3–21–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13123–031]

Eagle Crest Energy Company; 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:* Project Boundary Amendment.

b. *Project No:* 13123–031.

c. *Date Filed:* October 12, 2022.

d. *Applicant:* Eagle Crest Energy Company.

e. *Name of Project:* Eagle Mountain Pumped Storage Project.

f. *Location:* The project would be located at an inactive mine in Riverside County, California, near the town of Desert Center. The project boundary amendment pertains to the transmission line portion and its tie-in to the Red Bluff substation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Stephen Lowe, 700 Universe Blvd., Juno Beach, FL 33408, (310) 450–9090, *slowe@eaglecrestenergy.com.*

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* April 17, 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–13123–031. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* The proposed amendment would revise the project boundary to remove the Red Bluff Substation from the project boundary and relocate a portion of the transmission line so that it enters the substation from the east rather than from the north. The licensee states that the substation is owned by a third-party and need not be included in the project boundary. As constructed, the substation bays are located on the east side of the station rather than the north, requiring the project boundary to be amended to accommodate a new connection to the substation.

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. *Location of the Orders Issuing New License:* This order 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.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *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.

p. *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: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05891 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–17–000]

Sabal Trail Transmission, LLC; Notice of Request for Extension of Time

Take notice that on March 10, 2023, Sabal Trail Transmission, LLC (Sabal Trail) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until May 1, 2025, to complete Phase III of their Sabal Trail Project, originally authorized in the February 2, 2016 Order Issuing Certificate Under Section 7 of the Natural Gas Act (February 2 Order).[1] This project involved the construction, in three phases, of interstate pipeline facilities that would allow Sabal Trail to provide up to 1,075,000 dekatherms per day (Dth/d) of transportation service to delivery points in the southeastern United States. Ordering Paragraph (F)(1) of the February 2 Order, as amended, provided a deadline of May 1, 2021, to make Phase III of their project facilities available for service.

On April 7, 2021, Sabal Trail filed a request for an extension of time, until May 1, 2023, to complete construction of the project and place Phase III of the remaining facilities—two compressor units—into service. The Commission granted that requested extension of time on June 15, 2021.[2] That delegated order recognized that Sabal Trail had placed all other facilities into service and its pipeline system was capable of providing up to 999,000 Dth/d of firm transportation service.

Sabal Trail now states that, due to adverse economic and logistical conditions induced, in part, by the COVID–19 pandemic, commercial progress was slowed. Sabal Trail now states that these unforeseen circumstances precluded the project from reaching full commercialization, and that additional time is now required to complete the installation of the remaining two compressor units and make them available for service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on the applicant's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).[3]

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[4] the Commission will aim to issue an order acting on the request within 45 days.[5] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[6] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[7] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[8] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* 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

[1] *See Florida Southeast Connection, LLC, et al.,* 154 FERC ¶ 61,080 (2016) (February 2 Order), *order on reh'g, Florida Southeast Connection, LLC, et al.,* 156 FERC ¶ 61,160 (2016), *order on remand, Florida Southeast Connection, LLC, et al.,* 162 FERC ¶ 61,233 (2018).

[2] *Sabal Trail Transmission, LLC,* Docket No. CP15–17–000 (June 15, 2021) (delegated order).

[3] Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 39 (2020).

[4] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[5] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[6] *Id.* at P 40.

[7] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[8] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on March 30, 2023.

Dated: March 15, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05791 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3211–010]

New York Power Authority; Notice of Denial of Water Quality Certification

On July 31, 2020, the New York Power Authority (NYPA) filed an application for a new license for the Hinckley (Gregory B. Jarvis) Hydroelectric Project (project) in the above captioned docket. NYPA filed with the New York State Department of Environmental Conservation (New York DEC) a request for water quality certification for the project under section 401(a)(1) of the Clean Water Act on March 11, 2022. On March 7, 2023, New York DEC denied certification for the project. Pursuant to 40 CFR 121.8, we are providing notice that New York DEC's denial satisfies the requirements of 40 CFR 121.7(e).

Dated: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05888 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC23–9–000]

Commission Information Collection Activity (FERC–600); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on a currently approved information collection, FERC–600 (Rules of Practice and Procedure: Complaint Procedures).

DATES: Comments on the collection of information are due May 22, 2023.

ADDRESSES: You may submit your comments (identified by Docket No. IC23–9–000) on FERC–600 by one of the following methods:

Electronic filing through *https://www.ferc.gov* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (Including Courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–600, Rules of Practice and Procedure: Complaint Procedures.

OMB Control No.: 1902–0180.

Type of Request: Three-year extension without change of the current information collection.

Abstract: In accordance with 18 CFR 385.206, any person may file a complaint seeking Commission action against any other person alleged to be in violation of ''any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction.'' Regulations at 18 CFR part 343 provide for additional procedures and information collection requirements for complaints and other filings that pertain to oil pipelines under the Interstate Commerce Act.

Type of Respondents: Any person that files a complaint for Commission review and resolution.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden [1] and cost [2] for the information collection as shown in the following table:

FERC–600—RULES OF PRACTICE AND PROCEDURE: COMPLAINT PROCEDURES

A. Number of respondents	B. Annual number of responses	C. Total number of responses (Column A × Column B)	D. Average burden hour and cost per response	E. Total annual burden hour and cost (Column C × Column D)	F. Cost per respondent (Column E ÷ Column A)
62	1	62	160 hrs.; $14,560	9,920 hrs.; $902,720	$14,560

[1] 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. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[2] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon the Commission's 2022 average cost for salary plus benefits, the average hourly cost is $91/hour.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05887 Filed 3–21–23; 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 & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–569–000.
Applicants: Midship Pipeline Company, LLC.
Description: 2022 Annual Operations Transaction Report of Midship Pipeline Company, LLC.
Filed Date: 3/13/23.
Accession Number: 20230313–5247.
Comment Date: 5 p.m. ET 3/27/23.

Docket Numbers: RP23–574–000.
Applicants: MountainWest Pipeline, LLC.
Description: § 4(d) Rate Filing: Non-conforming Contracts—Wapiti Rocky Mountain, LLC to be effective 4/15/2023.
Filed Date: 3/15/23.
Accession Number: 20230315–5108.
Comment Date: 5 p.m. ET 3/27/23.

Docket Numbers: RP23–575–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: SS–2 and Firm and Interruptible Transportation Fuel Percentages Tracker Filing to be effective 4/1/2023.
Filed Date: 3/16/23.
Accession Number: 20230316–5046.
Comment Date: 5 p.m. ET 3/28/23.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 16, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05859 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2701–061]

Erie Boulevard Hydropower, L.P.; Notice of Denial of Water Quality Certification

On February 26, 2021, Erie Boulevard Hydropower, L.P. (Erie) filed an application for a license for the West Canada Creek Hydroelectric Project (project) in the above captioned docket. Erie filed with the New York State Department of Environmental Conservation (New York DEC) a request for water quality certification for the project under section 401(a)(1) of the Clean Water Act on March 9, 2022. On March 7, 2023, New York DEC denied certification for the project. Pursuant to 40 CFR 121.8, we are providing notice that New York DEC's denial satisfies the requirements of 40 CFR 121.7(e).

Dated: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05893 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 803–120]

Pacific Gas and Electric Company; 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:* Application for Temporary Variance of Flow Requirements.
b. *Project No:* 803–120.
c. *Date Filed:* February 28, 2023.
d. *Applicant:* Pacific Gas and Electric Company (licensee).
e. *Name of Project:* DeSabla-Centerville Project.
f. *Location:* The project is located on Butte Creek, West Branch Feather River, and their tributaries in Butte County, California.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
h. *Applicant Contact:* Ms. Jackie Pope, License Coordinator, Pacific Gas and Electric Company, Mail Code: N11D, P.O. Box 770000, San Francisco, CA 94177, Phone: (530) 254–4007.
i. *FERC Contact:* Katherine Schmidt, (415) 369–3348, *katherine.schmidt@ferc.gov.*
j. *Deadline for filing comments, motions to intervene, and protests:* April 17, 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 the docket number P–803–120. 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:* The licensee requests a temporary variance of the instantaneous minimum flow requirements in the West Branch Feather River below the Hendricks Head Dam, in Philbrook Creek below Philbrook Reservoir, and in Butte Creek below the Butte Creek Head Dam, to be averaged over 48 hours. Specifically, the licensee requests that the instantaneous normal and dry year minimum flow requirements: (1) in the West Branch Feather River, of 15 or 7 cubic feet per second (cfs), respectively, be temporarily modified to between 15 and 7 over 48 hours; (2) in Philbrook Creek, of 2 cfs (in both water year types), be temporarily modified to between 1 and 2 cfs over 48 hours; and (3) in Butte Creek, of 16 cfs (normal water year) or 7 cfs (dry water year), be temporarily modified to between 16 and 7 cfs, respectively, over 48 hours. The licensee proposes to execute these changes as soon as the Commission grants approval until November 30, 2023. The licensee states that the temporary variance would maximize the delivery of flows released from Philbrook to Butte Creek by eliminating the need to release additional buffer flows (4 to 5 cfs) to ensure the requisite instantaneous minimum instream flows are always met. The proposed variance would help preserve cold water storage in Philbrook Reservoir, increase flow to Butte Creek via the Hendricks Canal, and decrease water residence time in the DeSabla Forebay, thus providing additional water to Butte Creek during the hot summer months to minimize high temperature effects to Central Valley spring-run Chinook salmon, and to preserve water for release later in the summer months towards the end of their holding period when the situation is most critical.

Decisions on when and how to implement variance flows, as well as any changes under the variance, will be done in consultation and proceed with concurrence of licensee staff, California Department of Fish and Wildlife, National Marine Fisheries Service, and the U.S. Fish and Wildlife Service.

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: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05894 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–29–000]

Saguaro Connector Pipeline, L.L.C.; Notice of Schedule for the Preparation of an Environmental Assessment for the Border Facilities Project

On December 20, 2022, Saguaro Connector Pipeline, L.L.C. (Saguaro) filed an application in Docket No. CP23–29–000 requesting an Authorization pursuant to Section 3 of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Border Facilities Project (Project), and would serve as an interconnection to export natural gas produced in Texas across the United States–Mexico International Boundary in Hudspeth County, Texas. The design capacity of the border crossing is 2.834 billion standard cubic feet per day.

On January 5, 2023, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA	August 25, 2023
90-Day Federal Authorization Decision Deadline[2]	November 23, 2023

If a schedule change becomes necessary, additional notice will be

[1] 40 CFR 1501.10 (2020).

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Saguaro proposes to site, construct, connect, operate, and maintain a 48-inch-diameter natural gas pipeline from the United States (U.S.) to the Mexico International Border in Hudspeth County, Texas. The pipeline would extend from State of Texas land to the U.S.–Mexico international border in the middle of the Rio Grande River. The Project would consist of the installation of approximately 1,000 feet of 48-inch-diameter pipeline, establishment of a 50-foot-width permanent right-of-way, and use of approximately 14.2 acres as temporary workspaces and 6.9 miles of temporary access road.

Background

On February 3, 2023, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Borders Facilities Project* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping, the Commission received several comments. The primary issues raised by the commenters are environmental justice, cultural resources, and pipeline safety. The U.S. Environmental Protection Agency (EPA) provided recommendations to FERC regarding air quality, water quality, hazardous waste, and environmental justice. EPA's recommendations for these resources included comments regarding cumulative impacts for the non-jurisdictional pipeline connected to the Project and consultation with the U.S. Army Corps of Engineers regarding Clean Water Act Section 404 waters. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP23–29), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 15, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05789 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14514–003]

Community of Elfin Cove Non Profit Corporation, DBA Elfin Cove Utility Commission; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR [1] part 380, the Office of Energy Projects has reviewed the application for a license to construct and operate the Crooked Creek and Jim's Lake Hydroelectric Project. The project would be located on Crooked Creek and Jim's Lake, near the community of Elfin Cove, in the Sitka Recording District, Unorganized Borough, Alaska. Commission staff has prepared an Environmental Assessment (EA) for the project. The project would occupy 10.5 acres of federal land in the Tongass National Forest, managed by the U.S. Department of Agriculture's Forest Service.

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments 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. 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–14514–003.

For further information, contact John Matkowski at (202) 502–8576 or by email at *john.matkowski@ferc.gov.*

Dated: March 15, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05792 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–82–000]

Columbia Gas Transmission, LLC.; Notice of Application and Establishing Intervention Deadline

Take notice that on March 2, 2023, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 filed in the above referenced docket an

application pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) requesting authorization to abandon 37 injection/withdrawal wells, associated pipelines, and appurtenances, located in its Lucas and Pavonia Storage in Ashland and Richland Osceola Counties, Ohio, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to David Alonzo, Manager, Project Authorizations, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 at 832–320–5477; or email at *David.Alonzo@tcenergy.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on April 5, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is April 5, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is April 5, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/how-guides*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before April 5, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–82–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

[1] 18 CFR (Code of Federal Regulations) 157.9.

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–82–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To send via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FERCOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served to the applicant by mail to: David Alonzo, Manager, Project Authorizations, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 or by email (with a link to the document) at *david.alonzo@tcenergy.com.*

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *https://www.ferc.gov/ferc-online/overview.*

www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

Dated: March 15, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05790 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL23–46–000]

Midcontinent Independent System Operator, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 17, 2023, the Commission issued an order in Docket No. EL23–46–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether Midcontinent Independent System Operator, Inc.'s failure to update its system-wide Unforced Capacity/Intermediate Seasonal Accredited Capacity ratio is inconsistent with Schedule 53 of the Open Access Transmission, Energy and Operating Reserve Markets Tariff and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful and to establish a refund effective date. *Midcontinent Indep. Sys. Operator, Inc.,* 182 FERC ¶ 61,176 (2023).

The refund effective date in Docket No. EL23–46–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL23–46–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 5 days of the date of publication of this notice in the **Federal Register**.

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 (*https://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *https://www.ferc.gov.* 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.

Dated: March 17, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05933 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–42–001]

Northern Natural Gas Company; Notice of Application Requesting an Amendment to Certificate of Public Interest and Necessity

Take notice that on March 14, 2023, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, NE 68124, filed an application pursuant to Section 7 of the Natural Gas Act (NGA) to amend the certificate issued on December 7, 2022, authorizing Northern to: (1) abandon in-place approximately 82.70 miles of 20-inch-diameter A-line and appurtenances in Boone, Webster, Wright, and Hancock counties, Iowa; and (2) install the approximately 6.04-mile extension of its 30-inch-diameter D-line extension and above-ground facilities, all with appurtenances, in Wright County, Iowa, all as more fully set forth in the request, which is on file with the Commission and open to public inspection.

Specifically, Northern has determined based on the hydraulic analysis, that existing capacity demands on the existing pipeline system can be adequately met by reducing the length of the proposed D-line Extension to 1.51 miles. In addition to reducing the length of pipeline, Northern is no longer proposing to install a pipeline inspection gauge (pig) receiver and

mainline valve site (or associated permanent access roads) at the end of the mainline extension. The pig receiver and mainline valve site are no longer required due to the proximity of the existing upstream mainline valve. The D-line Extension will be directly interconnected with the existing IAM60603 C-line.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to Michael T. Loeffler, Senior Director of Certificates and External Affairs for Northern, 1111 South 103rd Street, Omaha, NE 68124, by telephone at (402) 398–7103, or by email at *mike.loeffler@nngco.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

[1] 18 CFR (Code of Federal Regulations) 157.9.

Public Participation

There are two ways to become involved in the Commission's review of this project: you can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on March 31, 2023.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before March 31, 2023.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP22–42–001 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address below. Your written comments must reference the Project docket number (CP22–42–001).

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To send via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[2] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [3] and the regulations under the NGA [4] by the intervention deadline for the project, which is March 31, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. [For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene.] For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP22–42–001 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on

[2] 18 CFR 385.102(d).

[3] 18 CFR 385.214.

[4] 18 CFR 157.10.

''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/sites/default/files/2020-05/document-less-intervention.pdf;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP22–42–001.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: 1111 South 103rd Street, Omaha, NE 68124 or at *mike.loeffler@nngco.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

All timely, unopposed [5] motions to intervene are automatically granted by operation of Rule 214(c)(1).[6] Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[7] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *https://ferconline.ferc.gov/LogIn.aspx.*

Intervention Deadline: 5:00 p.m. Eastern Time on March 31, 2023.

Dated: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05892 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

[5] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[6] 18 CFR 385.214(c)(1).

[7] 18 CFR 385.214(b)(3) and (d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–43–000]

Texas Eastern Transmission, LP; Notice of Request for Extension of Time

Take notice that on March 7, 2023, Texas Eastern Transmission, LP (Texas Eastern) requested that Federal Energy Regulatory Commission (Commission) grant an extension of time, until April 7, 2024, to complete its Gator Express Meter Station Project (Project). Texas Eastern received a prior notice authorization for the Project on February 7, 2022, which authorized: Texas Eastern to construct and operate interconnection facilities between Texas Eastern and Venture Global Gator Express, LLC (Gator Express) in Plaquemines Parish, Louisiana. Specifically, Texas Eastern proposed to construct a new metering and regulating facilities (M&R Facilities) which will be installed on a platform owned by Gator Express with approximately 0.2 mile of 30-inch-diameter interconnecting piping and a riser to connect Texas Eastern's Line to M&R Facilities on the Gator Express platform. The Commission's prior notice regulations require Texas Eastern to complete the construction of the Project and make it available for service within one year from issuance, or by April 8, 2023.[1]

In Texas Eastern's request for an extension of time, Texas Eastern stated that during construction Gator Express was unable to provide Texas Eastern with access to the platform, as Gator Express experienced its own extenuating circumstances that caused its delay in constructing the platform, including severe weather. Due to the extenuating circumstances Texas Eastern requests an extension of time which to complete the Project from the one-year date of April 8, 2023, to the new projected completion date of April 8, 2024.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on SNG's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).[2]

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[3] the Commission will aim to issue an order acting on the request within 45 days.[4] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[5] The Commission will not consider arguments that re-litigate the issuance of the Certificate Order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[6] At the time

[1] 18 CFR 157.207(c).

[2] Only motions to intervene from entities that were party to the underlying proceeding will be accepted. Algonquin Gas Transmission, LLC, 170 FERC ¶ 61,144, at P 39 (2020).

[3] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2020).

[4] Algonquin Gas Transmission, LLC, 170 FERC ¶ 61,144, at P 40 (2020).

[5] Id. P 40.

[6] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization,

Continued

a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[7] The OEP Director, or his or her designee, will act on those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning COVID–19, issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original copy of the protest or intervention by U.S. mail to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions by any other courier in docketed proceedings should be delivered to, Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on March 31, 2023.

Dated: March 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–05890 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[7] Algonquin Gas Transmission, LLC, 170 FERC ¶ 61,144, at P 40 (2020).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL23–31–000]

Commonwealth Edison Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 16, 2023, the Commission issued an order in Docket No. EL23–31–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether Commonwealth Edison Company's formula rate protocols are unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Commonwealth Edison Company,* 182 FERC ¶ 61,156 (2023).

The refund effective date in Docket No. EL23–31–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL23–31–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* 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.

Dated: March 16, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05858 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1358–000]

AmeriPro Energy Corp.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of AmeriPro Energy Corp.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 5, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in

docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 16, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–05857 Filed 3–21–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–SFUND–2022–0281; FRL–10766–01–R8]

Prospective Lessee Agreement, Agnico Eagle Mines Limited, Agnico Eagle (USA) Limited, Lawrence County, South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: Notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 8, of a prospective lessee agreement between the United States, the State of South Dakota, Agnico Eagle Mines Limited, and Agnico Eagle (USA) Limited (collectively ''Agnico''), at the Gilt Edge Mine Superfund Site in Lawrence County, South Dakota (Agreement). The agreement provides that Agnico will perform a reuse assessment, including surface and subsurface sampling, and pay at least $2.5 million annually to cover the cost of water treatment and site operations at the Gilt Edge Mine Site during the pendency of the Agreement. In exchange, the United States and the State of South Dakota covenant not to sue Agnico for Existing Contamination, work (including subsurface and surface sampling) conducted by Agnico, and certain payments as defined in the agreement.

DATES: Comments must be submitted on or before April 21, 2023.

ADDRESSES: The proposed agreement and additional background information relating to the agreement will be available upon request and will be posted at *https://www.epa.gov/superfund/gilt-edge.* Comments and requests for an electronic copy of the proposed agreement should be addressed to Anna Copeland, Enforcement Specialist, Superfund and Emergency Management Division, Environmental Protection Agency—Region 8, Mail Code 8SEM–PAC, 1595 Wynkoop Street, Denver, Colorado 80202, or telephone number: (303) 312–6764,or email address: *copeland.anna@epa.gov* and should reference the Gilt Edge Mine Superfund Site.

You may also send comments, identified by Docket ID No. EPA–R08–SFUND–2022–0281 to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Amelia Piggott, Assistant Regional Counsel, Office of Regional Counsel, Environmental Protection Agency, Region 8, Mail Code 8 ORC–LEC, 1595 Wynkoop, Denver, Colorado 80202, telephone number: (303) 312–6410, email address: *piggott.amelia@epa.gov.*

SUPPLEMENTARY INFORMATION: For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

Ben Bielenberg,

Acting Division Director, Superfund and Emergency Management Division, Region 8.

[FR Doc. 2023–05898 Filed 3–21–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2017–0430; FRL–10784–01–OAR]

Notice of Proposed Radon Credentialing Criteria

AGENCY: Environmental Protection Agency, Office of Radiation and Indoor Air.

ACTION: Notice of availability; opening of a 60-day public comment period.

SUMMARY: The Environmental Protection Agency (EPA) seeks input on criteria to help align and ensure consistency across radon service provider credentialing programs operated by certification bodies and states. The criteria reflect stakeholder feedback received in response to a 2017 **Federal Register** Notice on the same subject and consideration of conformity assessment practices in place across the federal government. The EPA is soliciting comment on these criteria. The comments will inform development of the final version of the criteria.

DATES: Comments may be submitted on or before May 22, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2017–0430 by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2017–0430 in the subject line of the message.
- *U.S. Postal Service Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OAR–2017–0430. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Katrin Kral, Indoor Environments Division, Office of Radiation and Indoor Air 6609T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; 202–343–9454; *kral.katrin@epa.gov.*

SUPPLEMENTARY INFORMATION: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2017–0430, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. The

KEY QUESTIONS section includes specific areas on which the EPA is seeking comment.

Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the notice by docket number, subject heading, **Federal Register** date, and page number.
- Provide a brief description of yourself and your role or organization before addressing the questions.
- Identify the question(s) you are responding to from the KEY QUESTIONS section by question number when submitting your comments. You do not need to address every question.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow it to be reproduced.
- Illustrate your concerns with specific examples and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Public Information Session. The EPA will also host a public information session during the comment period. Additional details about timing and the registration process for the information session webinar will be shared on the EPA's radon website at *https://www.epa.gov/radon/epas-draft-criteria-radon-credentialing-organizations.* The information session will cover the EPA's role in overseeing the quality of radon service providers as well as conformity assessment and application of voluntary consensus standards within federal programs, including the proposed criteria. Participants will have an opportunity to ask clarifying questions via the webinar chat function. The EPA will not accept comments on the criteria during the information session.

I. Background

Radon is the second leading cause of lung cancer in the United States and responsible for an estimated 21,000 deaths each year. One in 15 U.S. homes is estimated to have elevated radon levels. Radon-induced lung cancer is highly preventable and may be addressed by testing and mitigating homes when necessary. Professionals who provide radon testing and mitigation services play a key role in public health protection efforts. Because of the substantial risk resulting from exposure to radon, a naturally occurring radioactive gas, it is critical for radon service providers to possess the necessary skills to provide quality services, ensure consumer protection, and protect public health.

Since 1988, the EPA has administered a non-regulatory program under the Indoor Radon Abatement Act of 1988 (IRAA) [1] to reduce exposure to indoor radon by promoting awareness, testing, installation of radon mitigation systems in existing homes, and the use of radon-resistant new construction techniques in new buildings. The EPA works with state and tribal programs, industry, and the public to reduce human exposure to radon, thereby reducing deaths due to lung cancer. Essential to this mission is access to quality service providers who possess the skills required to measure indoor radon levels and conduct mitigation when necessary. Historically, the EPA has played a key role in establishing a standard of quality for radon service providers, including development and maintenance of a provider credentialing program (or provider proficiency program) and a one-time evaluation of two certification bodies in 2001, the National Radon Proficiency Program (NRPP) and the National Radon Safety Board (NRSB). Since then, the EPA has maintained oversight of radon credentialing systems, provided an associated national radon reference, and supported the development of and access to radon measurement and mitigation standards of practice. Taken together, these activities align with the EPA's authority to operate a proficiency program designed to rate the effectiveness of radon measurement and mitigation service providers and radon measurement devices.

An August 2017 **Federal Register** Notice [2] outlined proposed non-regulatory criteria aimed at establishing consistency across radon credentialing programs. These criteria included a third-party process for accrediting radon professional credentialing organizations to an international standard for certification bodies (International Organization for Standardization/International Electrotechnical Commission; ISO/IEC 17024:2012). The Agency requested comment on the proposed approach.

The Proposed Radon Credentialing Criteria document [3],which is the subject of this notice and is included in the docket, reflects stakeholder feedback received through the 2017 **Federal Register** Notice. The criteria outlined in this document remain grounded in third-party accreditation to ISO/IEC 17024:2012,[4] and are intended to support establishment and maintenance of a base level of organizational and program-specific competencies as well as maintain flexibility for state-run programs. The Proposed Radon Credentialing Criteria document contains four sections: I—Executive Summary; II—Discussion of Stakeholder Input on 2017 **Federal Register** Notice and EPA Responses; III—Evaluation Framework; IV—Implementation Approach. The EPA is particularly interested in feedback on Sections III and IV.

The Evaluation Framework is grounded in conformity assessment practices designed to promote consistency across credentialing programs operated by certification bodies and states. This is accomplished through specifications for the maintenance of credentialing programs and radon measurement and mitigation service provider job categories, including identification of radon service provider competencies and assessment methods. Service providers who achieve

[1] Public Law 100–551, Title III—Indoor Radon Abatement, enacted October 28, 1988 (also known as the Indoor Radon Abatement Act of 1988 or ''IRAA'') (15 U.S.C. 2661, *et seq.*).

[2] EPA. ''Notice of Intent to Establish Voluntary Criteria for Radon Credentialing Organizations; Notice of Availability; Opening of a 60-Day Public Comment Period.'' **Federal Register** (82 FR 39993, August 23, 2017) (FRL–9966–07–OAR).

[3] EPA. ''Proposed Radon Credentialing Criteria.'' U.S. EPA, Washington DC, EPA 402/D–22/001, December 2022. Available in the Docket: EPA–HQ–OAR–2017–0430.

[4] ISO, IEC. Conformity Assessment—General Requirements for Bodies Operating Certification of Persons. ISO/IEC 17024:2012(E). 2 ed. July 1, 2012.

and maintain credentials from certification bodies and/or state-run programs that meet the Evaluation Framework specifications will have demonstrated and be required to maintain comparable knowledge, skills, and abilities to perform radon services.

The Implementation Approach will facilitate identification of qualified radon service providers meeting a standardized set of specifications outlined within the Evaluation Framework. The Implementation Approach outlines the EPA's planned activities to facilitate adoption of the Evaluation Framework specifications:

- Develop and maintain a process by which credentialing organizations (certification bodies and state-run programs) can annually attest that they meet the Evaluation Framework specifications.
- Maintain a public list of credentialing organizations and accreditation bodies that meet the framework (see TSCA § 305(a)).
- Establish conditions for the State and Tribal Indoor Radon Grants (SIRG) program. It is important to note that IRAA does not provide the EPA with authority to require actions on the part of state or tribal governments. Nonetheless, the EPA may set conditions for receiving funding as part of the SIRG Program, which is authorized under IRAA, that are consistent with the purpose of the Act.

Taken together, the Evaluation Framework and Implementation Approach will help standardize program-specific competencies for credentialing radon service providers and facilitate access to and identification of a skilled and qualified workforce demonstrating a consistent set of competencies to perform radon testing and mitigation.

II. Request for Comments

Comments will inform development of a final version of the Radon Credentialing Criteria to help align and ensure consistency across credentialing programs operated by certification bodies and states. Widespread adherence to the Evaluation Framework as reinforced by the Implementation Approach will support standardization of quality among radon service provider credentials and credentialing organizations, help maximize the utility of the SIRG program by providing assistance to states in a manner that will facilitate access to—and identification of—radon service providers credentialed by organizations meeting a consistent set of specifications, and support streamlined approaches to addressing provider credentials within radon testing/mitigation polices. This in turn may lead to increased consumer confidence in, and demand for, radon service providers, as well as expanded markets for radon service providers.

As mentioned previously, the EPA is particularly interested in feedback on Sections III (Evaluation Framework) and IV (Implementation Approach) of the Proposed Radon Credentialing Criteria document, which is available in the docket. The KEY QUESTIONS section contains specific information requests on these two sections (III and IV).

The Agency is seeking comment from stakeholders working to reduce exposure to indoor radon. This includes stakeholders involved with promoting and/or conducting testing and installation of radon mitigation systems, such as:

- Organizations credentialing radon service providers and other building construction and/or maintenance related providers
- Radon service providers
- Organizations who provide third-party accreditation to the ISO/IEC 17024:2012
- Organizations representing state health and environmental programs, green building initiatives, and the radon services industry
- State radon programs
- Federal agencies who own, influence, or control housing

III. Key Questions

These questions pertain to Sections III and IV of the Proposed Radon Credentialing Criteria document. In addition to responding to specific requests for comments below, commenters are welcome to share any overarching feedback.

Key Questions 1–4. These questions address the Evaluation Framework which outlines a set of specifications in three areas (Accreditation, Examination, and Maintenance) that will help promote consistency across credentialing programs operated by certification bodies and states. Service providers who achieve and maintain credentials from certification bodies and/or state-run programs that meet the Evaluation Framework will have demonstrated and be required to maintain comparable knowledge, skills, and abilities to perform radon services.

1. Do you have any general feedback on the Evaluation Framework (Accreditation, Examination and Maintenance)?

2. What features of the Evaluation Framework may positively and/or negatively impact a state's ability to make any necessary modifications within their organizational structures to ensure adherence of the state-run program to the Evaluation Framework specifications?

3. Will creation of certifications and examinations for the measurement and mitigation service provider categories be sufficient for state-run programs seeking to meet the Evaluation Framework?

4. Should independent certification bodies that meet the Evaluation Framework be required to create certifications and examinations for two job categories (measurement and mitigation) and two job sub-types distinguishing roles for an entry-level technician position and a more senior/supervisory specialist position?

Key Questions 5–6. These questions cover the Examination component of the Evaluation Framework which includes specifications and standards that pertain to determining service provider mastery of competencies necessary to perform a specific job. Specifications for state-run programs that embed third-party examinations within their credentialing programs are also included.

5. Is the proposed stakeholder representation on the expert panel adequate? Stakeholders identified to serve on a panel responsible for developing a job task analysis are considered essential to ensure appropriate representation of the entire population of stakeholders that contribute to, and/or participate in, the credentialing of radon service providers. Additional stakeholder groups (*e.g.,* home inspectors, builders) may be included as part of an expert panel at the certification body's discretion.

6. Should radon service providers be required to complete a device performance test as a requirement to receiving a credential for radon measurement service provider job categories?

These performance tests are designed to evaluate a provider's proficiency using an analytical device. This type of performance test would be incorporated into the Evaluation Framework as part of the ''Examination'' component. Credentialing organizations would be required to verify and validate how the performance test accurately and reliably assesses the task(s) identified in the job task analysis, as well as how it aligns with the applicable American National Standard which specifies minimum performance criteria and testing procedures for instruments and/or systems designed to quantify the concentration of radon-222 gas in air (MS–PC, Performance Specifications for Instrumentation Systems Designed to Measure Radon Gas in Air).

Key Question 7. This question covers the Maintenance component of the

Evaluation Framework which includes specifications that help ensure continued adherence by certification bodies to third-party accreditation requirements and consistency across credentialing program requirements. The specifications addressing credentialing program requirements will help assure that radon service providers are equipped with knowledge, skills and competencies necessary to maintain credentials issued by certification bodies and state-run programs. This element also includes a specification for credentialing organizations to verify the use of approved devices and maintenance of a Quality Assurance Plan in accordance with the most current American National Standards.

7. How frequently should providers be required to verify use of approved testing devices (when applicable) and maintenance of a Quality Assurance Plan?

Key Questions 8–15. These questions address the Implementation Approach which outlines the EPA's planned activities to facilitate adoption of the Evaluation Framework and outlines elements for three time periods (while the Evaluation Framework is being finalized, once the Evaluation Framework is finalized and during the 3-year phase-in period, after the 3-year phase-in period):

- *Annual Attestation Process:* Develop and maintain a process by which credentialing organizations (certification bodies and state-run programs) can annually attest they meet the Evaluation Framework specifications.
- *Public List:* Maintain a public list of credentialing organizations and accreditation bodies that meet the Evaluation Framework (see TSCA § 305(a)).
- Conditions for the EPA's SIRG Program.

8. Do you have any general feedback on the Implementation Approach?

9. Will a 3-year phase-in period will be sufficient for certification bodies to prepare for and achieve third-party accreditation and meet the Evaluation Framework and for state-run programs to meet the Evaluation Framework?

10. Do you have feedback on the size and impact of the costs associated with third-party accreditation to ISO/IEC 17024:2012?

11. Do you have feedback regarding the proposed annual attestation process?

12. What reporting mechanisms should the EPA consider for state-run programs to provide annual progress updates and attestations once the Evaluation Framework has been met?

13. Do you have feedback regarding the proposal for the EPA to maintain a public list?

14. Should the EPA identify on its website the credentialing organizations that have declared their intent, but do not yet meet, the Evaluation Framework? In this case credentialing organizations that do not meet all the requirements at the end of the 3-year phase-in period would be removed from the website until such time as they can demonstrate their ability to meet all the requirements of the Evaluation Framework.

15. Do you have feedback regarding the proposal to establish conditions for the SIRG program?

Jonathan D. Edwards,

Director, Office of Radiation and Indoor Air.

[FR Doc. 2023–05354 Filed 3–21–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10801–01–OA]

Notification of Public Meetings of the Clean Air Scientific Advisory Committee Lead Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public meetings of the Clean Air Scientific Advisory Committee (CASAC) Lead Panel. A public meeting will be held for the CASAC Lead Panel to receive a briefing from EPA on the *Integrated Science Assessment (ISA) for the National Ambient Air Quality Standards for Lead (External Review Draft).* A second public meeting will be held for the panel to peer review the ISA and to provide a consultation on the *Integrated Review Plan (IRP) for Review of the National Ambient Air Quality Standards for Lead, Volume 3: Planning for Quantitative Exposure/Risk Analyses (External Review Draft).*

DATES: The briefing from EPA on the Lead ISA will be held on April 11, 2023, from 11:00 a.m. to 3:00 p.m. The public meeting for the panel to peer review the Lead ISA and provide a consultation on the Lead IRP Volume 3 will be held on Tuesday, June 13, 2023, from 8:00 a.m. to 5:00 p.m. and Wednesday, June 14, 2023, from 8:00 a.m. to 5:00 p.m. All times listed are in Eastern Time.

ADDRESSES: The briefing on April 11, 2023, will be conducted virtually. Please refer to the CASAC website at *https://casac.epa.gov* for information on how to attend the briefing. The public meeting on June 13, 2023, and June 14, 2023, will be conducted in person (at a location to be determined) and virtually. Please refer to the meeting web page on the CASAC website at *https://casac.epa.gov* for the location and details on how to access the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this notice may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), SAB Staff Office, by telephone at (202) 564–2050 or via email at *yeow.aaron@epa.gov.* General information concerning the CASAC, as well as any updates concerning the meetings announced in this notice can be found on the CASAC website: *https://casac.epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and NAAQS and recommend to the EPA Administrator any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also: advise the EPA Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised NAAQS; describe the research efforts necessary to provide the required information; advise the EPA Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity; and advise the EPA Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such NAAQS. As amended, 5 U.S.C., App. Section 109(d)(1) of the Clean Air Act (CAA) requires that EPA carry out a periodic review and revision, as appropriate, of the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including lead.

The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2, and conducts business in accordance with FACA and related regulations. The CASAC and the CASAC Lead Panel 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 CASAC Lead Panel will hold a public meeting to receive a briefing from EPA on the Lead ISA and a public meeting for the panel to peer review the Lead

ISA and to provide a consultation on the Lead IRP Volume 3.

Technical Contacts: Any technical questions concerning the Lead ISA should be directed to Dr. Evan Coffman (*coffman.evan@epa.gov*). Any technical questions concerning the Lead IRP Volume 3 should be directed to Dr. Deirdre Murphy (*murphy.deirdre@epa.gov*).

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible on the CASAC website: *https://casac.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 EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the CASAC and the EPA review documents, and/or the group conducting the activity, for the CASAC to consider as it develops advice for EPA. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC 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: Individuals or groups requesting an oral presentation during the public meeting will be limited to five minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. The public comment period will be on June 13, 2023. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by June 6, 2023, to be placed on the list of public speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by CASAC members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by June 6, 2023. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. 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 CASAC 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 Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov.* To request accommodation of a disability, please contact the DFO, at the contact information noted above, preferably at least ten days prior to each meeting, to give EPA as much time as possible to process your request.

V. Khanna Johnston,

Deputy Director, Science Advisory Board Staff Office.

[FR Doc. 2023–05815 Filed 3–21–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10616–01–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support (OMS), Environmental Protection Agency (EPA).

ACTION: Notice of a modified system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Office of Mission Support (OMS) is giving notice that it proposes to modify a system of records pursuant to the provisions of the Privacy Act of 1974. The Office of Administrative Services Information System (OASIS) is being modified to update safeguard infrastructure and security measures, and add Routine Uses.

DATES: Persons wishing to comment on this system of records notice must do so by April 21, 2023. New routine uses for this modified system of records will be effective April 21, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2006–0633, by one of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: (202) 566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2006–0633. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *https://www.regulations.gov.* The *https://www.regulations.gov* website is an ''anonymous access'' system for the EPA, which means the EPA will not know your identity or contact information. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket

materials are available either electronically in *https://www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752. Further information about EPA Docket Center services and current operating status is available at*https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: James Cunningham, *cunningham.james@epa.gov,* 202–564–7212; Jackie Brown, *brown.jackie@epa.gov,* 202–564–0313; or *OMS-ARM-OA-RMS@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA uses OASIS as a secure platform to provide software services to EPA employees using EPA's intranet, including a secure database for the software modules the system supports. EPA is updating this SORN to reflect how OASIS has modernized its operating system platform, implemented a more secure method for user authentication, and completed a review and update to the software modules the system supports. EPA is removing the following OASIS software modules that are no longer in use: Physical Security; Warehouse Management; Fitness Center Management; Combo Locks, Incidents, Keys and Safe System; and Personnel Security System. EPA is updating the following OASIS software modules with no impact to personally identifiable information (PII): Building Service Desk, Credential Badging, Driver Tracking, Mail Center, National Security Information, and Parking System (previously Parking and Transit System). EPA is adding the following OASIS software modules with no addition of new PII data elements: Environmental Health and Safety, HQ Project Management, Incident Reporting, Print Request Form, Print Request Tracking, PSS1 Archive, Transit Management, Transit Subsidy Program Enrollment, USA Performance (USAP), and User Management. All OASIS modules were updated to incorporate Multi-Factor Authentication (MFA). Additionally, EPA is updating this SORN to add Routine Uses L and M per updated OMB requirements.

SYSTEM NAME AND NUMBER:

Office of Administrative Services Information System (OASIS), EPA–41.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The system is managed by the Office of Mission Support, EPA, 1301 Constitution Ave. NW, Washington, DC 20460. Electronically stored information is hosted at the EPA National Computer Center (NCC), 109 TW Alexander Drive, Research Triangle Park, Durham, NC 27711.

SYSTEM MANAGER(S):

James Cunningham, Information Technology Project Manager, 1301 Constitution Ave. NW, Washington, DC 20460, *cunningham.james@epa.gov*. Jackie Brown, Information System Security Officer, 1301 Constitution Ave. NW, Washington, DC 20460, *brown.jackie@epa.gov*.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E-Government Act of 2002 (Pub. L. 104–347); the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3501, *et seq.*); Executive Order 13571—Streamlining Service Delivery and Improving Customer Service (April 2011).

PURPOSE(S) OF THE SYSTEM:

The purpose of OASIS is to administer and manage administrative resources for the EPA. There are nineteen OASIS software modules. Each module's business purpose is described in the following table:

OASIS software module	Business purpose
Building Service Desk	Manage Headquarters building maintenance and service calls.
Credential Badging	Generate and manage issuance and expiration of Credential badges used to access restricted EPA labs.
Driver Tracking	Manage EPA Headquarters executive motor pool fleet of vehicles and track and report on EPA vehicle usage trends.
Environmental, Health and Safety	Track and report environmental, health and safety regulatory compliance.
EPA Automotive Statistical Tool (AST).	Manage EPA's fleet life-cycle data such as acquisition costs, vehicle identification, operating costs, fuel consumption, and disposal proceeds.
Federal Real Property Profile (FRPP).	Facilitate yearly submission of the Federal Real Property Profile (FRPP) data to the General Services Administration (GSA).
HQ Project Management	Provide Facility Management Services Division with the capability to manage EPA Headquarters facility projects.
Incident Reporting	Provide security incident reporting system for EPA Headquarters.
Mail Center	Record and track postal transaction costs associated with the Agency's incoming and outgoing mail and reconcile the costs with the Office of the Chief Financial Officer (OCFO) financial system.
National Security Information	Support EPA Security Management Division (SMD) in implementing the agency's national security information program.
Parking System	Manage EPA Headquarters parking spaces.
Print Request Form	Provide EPA Headquarters employees with the capability to submit document print requests.
Print Request Tracking	Track and maintain information for Headquarters Print Job Orders and manage Print Shop costs associated with these orders.
PSS1 Archive	Provide SMD Physical Security Branch (PSB) the capability to read legacy Personnel Security System data.
Real Estate Management	Manage EPA real property assets.
Transit Management	Provide Facility Management Services Divison (FMSD) with the capability to manage EPA Headquarters employee Transit Subsidy accounts.
Transit Subsidy Program Enrollment.	Provide Headquarters employees with the capability to register and update their Transit Subsidy accounts.
USA Performance	Provide application programming interface (API) access to the Office of Personnel Management (OPM) USA Performance (USAP) System to maintain performance related data for EPA employees.
User Management	Manage user access and roles for OASIS software modules.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include current and former Agency federal employee, contractors, grantees, interns, and volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records include: personal information such as name, home address, telephone number, workforce ID, work location, position, date of birth, city of birth, and Social Security Number (SSN); work-related information such as work address, work telephone number, organization/office assignment, application role(s), email address, and company name; personnel security records such as the results of a background investigation, and information derived from documents used to verify applicant's identity; security incident related information such as names, incident date, type, description, contact information, employment type; physical security information such as building vulnerabilities, mitigations, costs associated with mitigation, and risk designation levels at various EPA locations; driver tracking information such as EPA vehicle license plate numbers, service records, driver name, trip type, pickup date, and number of passengers utilizing Agency buses; parking and transit information such as carpool members' names, addresses, work addresses, license plate numbers, and type of cars as well as transit subsidy information such as subsidy amount, possession of a registered Smart Trip card, and serial number of Smart Trip card if registered; Mail Center Management information used to track registered mail, including mailing address of the recipient and sender, name of individual who signed for the piece of mail, date and time mail was signed for, and costs of postage for each office; printing information such as name and telephone number of the office requesting print jobs, the budget associated with the print job, and completion and delivery of the print job; physical asset information such as asset name, ID, type, location, address, legal interest, primary use and disposition; and print request information such as originator name, work phone number, mail code, title, statistics, data requested, date submitted, and estimated cost.

RECORD SOURCE CATEGORIES:

Personnel information is obtained from EPA's Office of Human Resources (OHR). Remaining information is obtained from users and managers for each OASIS module.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system (86 FR 62527): A, B, C, D, E, F, G, H, I, J, K, L, and M.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained electronically on computer storage devices, located at U.S. EPA National Computer Center, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Paper records are not collected nor maintained for OASIS.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Only users authorized to use the National Security Information (NSI) module can retrieve information by SSN. Other modules require one or more of the following fields to retrieve records: Name, Work Force ID, LAN ID, Personnel ID, Email Address, Smart Trip Number, Incident Number, Business Service Desk (BSD) Ticket Number, Asset ID, or Project Number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with EPA's records control schedule approved by the National Archives and Records Administration (NARA): EPA Record Schedules 0740 and 0063.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal sensitive data in OASIS are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800–53, ''Security and Privacy Controls for Information Systems and Organizations,'' Revision 5.

1. Administrative Safeguards: All EPA system users are expected to follow the Agency Rules of Behavior. All employees, contractors, volunteers, and grantees are required to complete EPA's annual Information Security and Privacy Awareness Training and Controlled Unclassified Information (CUI) Awareness Training.

2. Technical Safeguards: Access to OASIS is role-based using the principle of least privilege. Role-based access ensures that individuals only have the roles granted to them that are necessary to complete their job function. These roles could include the ability to view, create, or modify records. A PIV Credential is used for MFA user authentication. OASIS data elements are stored in an ORACLE Enterprise Edition database and uses AES256 bit encryption algorithms to protect PII data as it resides in the database and when the data is in use by authenticated users.

3. Physical Safeguards: All OASIS records are maintained on computer servers that are located in secure, access-controlled buildings.

RECORD ACCESS PROCEDURES:

All requests for access to personal records should cite the Privacy Act of 1974 and reference the type of request being made (*i.e.,* access). Requests must include: (1) the name and signature of the individual making the request; (2) the name of the Privacy Act system of records to which the request relates; (3) a statement whether a personal inspection of the records or a copy of them by mail is desired; and (4) proof of identity. A full description of EPA's Privacy Act procedures for requesting access to records is included in EPA's Privacy Act regulations at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must include: (1) the name and signature of the individual making the request; (2) the name of the Privacy Act system of records to which the request relates; (3) a description of the information sought to be corrected or amended and the specific reasons for the correction or amendment; and (4) proof of identity. A full description of EPA's Privacy Act procedures for the correction or amendment of a record is included in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURES:

Individuals who wish to be informed whether a Privacy Act system of records maintained by EPA contains any record pertaining to them, should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, or by email at: *privacy@epa.gov.* A full description of EPA's Privacy Act procedures is included in EPA's Privacy Act regulations at 40 CFR part 16.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 51814 (August 31, 2006).

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2023–05806 Filed 3–21–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0029; –0112; –0125; –0177]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the request to renew the existing information collections described below (OMB Control No. 3064–0029, –0112, –0125, and –0177). The notices of the proposed renewal for these information collections were previously published in the **Federal Register** on January 6, 2023, and February 10, 2023, allowing for a 60-day comment period.

DATES: Comments must be submitted on or before April 21, 2023.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency website: https://www.fdic.gov/resources/regulations/federal-register-publications/.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

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: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. *Title:* Notification of Performance of Bank Services.

OMB Number: 3064–0029.

Form Number: 6120/06.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0029]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Notification of Performance of Bank Services, 12 CFR 304.3 (Mandatory).	Reporting (On Occasion)	294	2.21	00:30	325
Total Annual Burden (Hours):					325

Source: FDIC.

General Description of Collection: Insured state nonmember banks are required to notify the FDIC, under section 7 of the Bank Service Company Act (12 U.S.C. 1867), of the relationship with a bank service company. The Form FDIC 6120/06, Notification of Performance of Bank Services, may be used by banks to satisfy the notification requirement. There is no change in the method or substance of the collection. The estimated number of respondents, as well as the time per response and the frequency of response have remained the same.

2. *Title:* Real Estate Lending Standards.

OMB Number: 3064–0112.

Forms: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0112]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Real Estate Lending Standards, 12 CFR 365 (Mandatory).	Recordkeeping (Annual)	3,086	1	20:00	61,720
Total Annual Burden (Hours):					61,720

Source: FDIC.

General Description of Collection: Section 1828(o) of the Federal Deposit Insurance Act requires each federal banking agency to adopt uniform regulations prescribing real estate lending standards. Part 365 of the FDIC

Rules and Regulations, which implements section 1828(o), requires institutions to have real estate lending policies that include (a) limits and standards consistent with safe and sound banking practices; (b) prudent underwriting standards, including loan-to-value ratio (LTV) limits that are clear and measurable; (c) loan administration policies; (d) documentation, approval and reporting requirements; and (e) a requirement for annual review and approval by the board of directors. The rule also establishes supervisory LTV limits and other underwriting considerations in the form of guidelines. Since banks generally have written policies on real estate lending, the additional burden imposed by this regulation is limited to modifications to existing policies necessary to bring those policies into compliance with the regulation and the development of a system to report loans in excess of the guidelines to the board of directors. There is no change in the substance or methodology of this information collection. The change in burden is due to a decrease in the number of respondents.

3. *Title:* Foreign Banking and Investment by Insured State Nonmember Banks.

OMB Number: 3064–0125.

Forms: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0125]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (Hours)
1. Notices or applications to establish, move, or close a foreign branch, 12 CFR 303.182 (Mandatory).	Reporting (On Occasion)	1	1	02:00	2
2. Filings for authorization for foreign branch to engage in activities other than those permitted under 12 CFR 347.115, 12 CFR 303 (Mandatory).	Reporting (On Occasion)	1	1	40:00	40
3. Filings to invest in foreign organizations, or to engage in certain activities through foreign organizations, 12 CFR 303.183(b) and 303.121, (Mandatory).	Reporting (On Occasion)	2	1	60:00	120
4. Merger transactions involving foreign organizations, 12 CFR 303.185(b) and 12 CFR 303.62 (Mandatory).	Reporting (On Occasion)	1	1	06:00	6
5. Filings by insured state nonmember banks to invest in, or divest its interest in, a foreign organization, 12 CFR 303.183 (Mandatory).	Reporting (On Occasion)	1	1	02:00	2
6. Notice of foreign divestiture of foreign organization, 12 CFR 303.183(d) (Mandatory).	Reporting (On Occasion)	1	1	01:00	1
7. Document policies and procedures for supervision of foreign activities, 12 CFR 347.116 (Mandatory).	Recordkeeping (Annual)	6	1	400:00	2,400
Total Annual Burden (Hours):					2,571

Source: FDIC.

General Description of Collection: The Federal Deposit Insurance (FDI) Act requires state nonmember banks to obtain FDIC consent to establish or operate a foreign branch, or to acquire and hold, directly or indirectly, stock or other evidence of ownership in any foreign bank or other entity. The FDI Act also authorizes the FDIC to impose conditions for such consent and to issue regulations related thereto. This collection is a direct consequence of those statutory requirements. There is no change in the substance or methodology of this information collection. The change in burden is due to a decline in the number of FDIC-supervised institutions that operate foreign branches and one fewer estimated respondent to IC 6.

4. *Title:* Treatment by the FDIC as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation after September 30, 2010.

OMB Number: 3064–0177.

Forms: None.

Affected Public: Insured Depository Institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0177]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Credit performance and changes to compensation arrangements, 12 CFR 360.6(b)(2)(i)(C) & (D) (Mandatory).	Disclosure (Monthly)	28	125.857	02:00	7,048
2. Securitization structure and initial compensation arrangements, 12 CFR 360.6(b)(2)(i)(B) & (D) (Mandatory).	Disclosure (On Occasion)	28	10.488	03:00	882
3. Residential mortgages: loan-level information and sponsor's disclosure of third-party due diligence report on compliance with 360.6(b)(2)(ii)(B), 12 CFR 360.6(b)(2)(ii)(A) & (B) (Mandatory).	Disclosure (On Occasion)	3	3.667	02:00	22
4. Residential mortgages: servicer or affiliate ownership interests, 12 CFR 360.6(b)(2)(ii)(C) (Mandatory).	Disclosure (On Occasion)	19	4.789	01:00	91
5. Securitization documents, 12 CFR 360.6(c)(7) (Mandatory).	Recordkeeping (On Occasion)	28	10.488	01:00	294
Total Annual Burden (Hours):					8,337

Source: FDIC.

General Description of Collection: Section 360.6 of the FDIC's regulations sets forth certain conditions that must be satisfied for a securitization transaction sponsored by an insured depository institution to be eligible for special treatment in the event that the FDIC is appointed receiver for the sponsor. Among other conditions, the securitization documents must require compliance with certain disclosure requirements (including the requirements of Regulation AB of the Securities and Exchange Commission). Conditions of eligibility for special treatment for participations in financial assets under § 360.6 are also set forth. Based upon a closer review of the Rule, the FDIC has re-categorized the information collection requirements in 12 CFR 360.6 into five distinct information collections (ICs) covering: (1) periodic disclosures of credit performance or changes to initial compensation arrangements under 12 CFR 360.6(b)(2)(i)(C) and (D); (2) disclosures of initial compensation arrangements and securitization structure under 12 CFR 360.6(b)(2)(i)(B) and (D); (3) sponsors' disclosures of loan-level information and third-party due diligence reports for RMBSs under 12 CFR 360.6(b)(2)(ii)(A) and (B); (4) servicers' disclosures of servicer or affiliate ownership interests for securitizations in which the assets include residential mortgage loans under 12 CFR 360.6(b)(2)(ii)(C); and (5) a recordkeeping requirement that the closing documents of a securitization be maintained in a readily accessible form under 12 CFR 360.6(c)(7). The burden associated with these five categories are enumerated in the estimated burden table which now identifies the regulatory authorities for each IC.

While there is no change in the substance of the information collection, the ICR is being revised to reflect the re-categorization of the PRA requirements in 12 CFR 360.6 into five distinct ICs. The additional IC was added to this ICR to recognize the periodic credit performance disclosure requirement.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on March 17, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–05883 Filed 3–21–23; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS23–02]

Agency Information Collection Activities; Proposed Information Collection: Appraiser Profession Survey

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

ACTION: Notice and request for comment.

SUMMARY: The ASC is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, ASC is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments will be accepted until May 22, 2023.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified

by Docket Number AS23–02, by any of the following methods:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: webmaster@asc.gov.* Include the docket number AS23–02 in the subject line of the message.

• *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1325 G Street NW, Suite 500, Washington, DC 20005.

• *Hand Delivery/Courier:* Appraisal Subcommittee, 1325 G Street NW, Suite 500, Washington, DC 20005.

In general, the ASC will enter all comments received on the Federal eRulemaking (*Regulations.gov*) website without change, including any business or personal information that you provide, such as name and address information, email addresses or phone numbers. Comments received, including attachments and other supporting materials are part of the public record and subject to public disclosure. At the close of the comment period, all public comments will also be made available on the ASC's website at *https://www.asc.gov* (follow link in ''News and Events'') as submitted, unless modified for technical reasons.

FOR FURTHER INFORMATION CONTACT: Lori Schuster, Management and Program Analyst, *lori@asc.gov,* (202) 595–7578, or Juan Burgos, Acting General Counsel, *juan@asc.gov,* (202) 792–1170, ASC, 1325 G Street NW, Suite 500, Washington, DC 20005. The above phone numbers are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This notice informs the public that the ASC is seeking approval from OMB for the information collection described in Section A below.

A. Overview of Information Collection

Title of Information Collection: Appraiser Profession Survey.

OMB Number: New Collection.

Type of Request: New Collection.

Form Number: N/A.

Description of the need for the information and proposed use: The importance of the appraisal industry and appraisers in the mortgage financing industry and other financial services cannot be exaggerated. Appraisals provide an objective assessment of a property's value and condition, which is essential for lending industries to mitigate risks, and for current and prospective homeowners or sellers to make informed decisions regarding moving forward with a transaction. Under section 1103 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the ASC has the authority to monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility.[1] In addition, under section 1106 of FIRREA the ASC has the authority to take testimony, receive evidence, provide information, and perform research, as it considers appropriate.[2] On June 1, 2021, President Biden launched the Property Appraisal and Valuation Equity (PAVE) Task Force, made up of 13 Federal agencies and offices, and charged with developing actions and recommendations to foster a more equitable home appraisal industry. In the PAVE Action Plan, released last year, the PAVE Task Force recognizes the barriers presented to women and communities of color in gaining access to the appraisal profession.[3] Additionally, various studies, and other third party information from across the country indicate that there are significant barriers to entry to the appraisal profession that are negatively impacting diversity and supply in the profession.[4] Hence, the ASC is proposing a collection of information directly from appraisal professionals, who belong to underserved communities that historically have been denied equitable treatment due to their race or ethnicity, or both.[5] The Appraiser Profession Survey will result in data that are needed for the ASC to better understand the challenges facing the appraisal industry today including barriers to entry into the profession and appraiser shortages. The objective is, in part, to collect new data about real estate appraisers of single-family residential properties. This data collection will improve the ASC's understanding of the current demographics of the appraisal profession, barriers to entry for aspiring appraisers, especially women and persons from underserved communities historically denied equitable treatment due to their race or ethnicity, or both, current trends and patterns of the appraisal practice, including the use of new valuation technologies and appraisal engagement practices, geographic differences in the number of appraisers in urban and rural areas; and potential market imbalances between appraiser supply and demand. These data are not available elsewhere and are essential to ASC policy development. Data collection will focus on characteristics of appraisers that are not available in other data sources, such as the ASC's National Registry of certified and licensed appraisers. Furthermore, under federal law, certain minimum appraisal standards and appraiser qualifications are set by the Appraisal Foundation's (TAF) Appraisal Standards Board and Appraiser Qualifications Board, respectively.[6] Accordingly, of interest to the ASC are the real world experiences of active appraisers and the potential impacts of TAF's policies and to what extent appraiser training requirements are relevant to the necessary experience needed to enter the profession. Of particular interest to the ASC is how TAF policies may disproportionately affect aspiring appraisers who historically have been denied equitable treatment because of their race or ethnicity, or both. The survey will use online data collection and solicit responses by email and U.S. postal mail. The ASC will use appropriate statistical sampling techniques and existing datasets to draw the sample. The ASC may work with private sector providers and membership associations to identify prospective respondents to the survey. The ASC will draw a representative sample of the appraisers in the ASC Appraiser Registry and oversample appraisers that historically have been denied equitable treatment because of their race or ethnicity, or both. Based on the U.S. Bureau of Labor Statistics (BLS) reports from 2022, there are an estimated 100,000 property appraisers and assessors (appraisers cannot be separated from assessors). Of this group of 100,000 persons, approximately 7,600 are persons of color (non-white) and approximately 7,800 are persons who identify as Hispanic or Latino.[7] Because persons who historically have been denied equitable treatment because of their race or ethnicity, or both, is a

[1] 12 U.S.C. 3332.

[2] 12 U.S.C. 3335.

[3] *https://pave.hud.gov/sites/pave.hud.gov/files/documents/PAVEActionPlan.pdf.*

[4] *See, e.g.,* National Fair Housing Alliance Report ''Appraisal Standards and Appraiser Criteria Report'' at *https://nationalfairhousing.org/issue/issue-appraisal-bias/.*

[5] *See* Executive Order No. 14091 (''Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government''); and Executive Order No. 13985 (''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government''); *see also* 62 FR 58782 (Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity).

[6] 12 U.S.C. 3331, 3339 and 3345.

[7] *See https://www.bls.gov/cps/cpsaat11.htm.*

significant concern, ASC wants to include the experiences of these appraisers in the survey.

This **Federal Register** Notice provides an opportunity for the public to comment on the information collection for the Appraiser Profession Survey. The purpose of the survey is to learn about the experiences of appraisers, including women appraisers and appraisers from underserved communities (as defined by Executive Order 14091), and to better understand training practices and appraisal industry practices. In addition to the survey, the ASC plans to conduct in-depth interviews with several types of groups: appraisers who historically have been denied equitable treatment because of their race or ethnicity or both, women appraisers, rural appraisers, and urban appraisers living or working, or both, in historically underserved communities. The ASC wants to better understand the different experiences of urban and rural appraisers, and appraisers who historically have been denied equitable treatment because of their race, or ethnicity, or both.

Respondents: Residential real estate appraisers, both active and inactive.

Estimated Number of Respondents: This information collection will affect approximately 1,500 respondents.

Estimated Time per Response: The survey is expected to take up to 30 minutes.

Qualitative interviews with up to 75 respondents will take approximately 60 minutes to complete.

Frequency of Response: One time for all surveys and qualitative interviews. Up to 75 appraisers may also be selected for both the survey and interviews.

Estimated Total Annual Burden Hours: 825 hours for all surveys and qualitative interviews.

Estimated Total Annual Cost: $27,786.00 for all surveys and qualitative interviews.

Respondent's Obligation: Participation is voluntary.

Legal Authority: The collection of information is conducted under sections 3506(c)(2)(a) and 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(a) and 3507); 12 U.S.C. 3332 and 12 U.S.C. 3335.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
Appraiser survey	1,500	1	1	0.5	750	$33.68	$25,260.00
Qualitative interviews	75	1	1	1	75	33.68	2,526.00
Total	1,575				825		27,786.00

Source: National estimates for Property Appraisers and Assessors, Occupational Employment and Wages, May 2021. U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes132020.htm*).

To arrive at the dollar cost of the estimated response burden, we have used estimates from the BLS on average hourly earnings in May 2021 for Property Appraisers and Assessors.

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 would achieve the ASC's stated goals as discussed above or is there is another method that the ASC should consider;

(2) The accuracy of the ASC'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 with appropriate automated collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

ASC encourages interested parties to submit comments in response to these questions.

C. Authority

Sections 3506(c)(2)(a) and 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(a) and 3507); 12 U.S.C. 3332 and 12 U.S.C. 3335.

By the Appraisal Subcommittee.

James R. Park,

Executive Director.

[FR Doc. 2023–05838 Filed 3–21–23; 8:45 am]

BILLING CODE 6700–01–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 April 6, 2023.

A. Federal Reserve Bank of Cleveland (Bryan S. Huddleston, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@lev.frb.org:*

1. *David R. Ross, Edna K. Ross, and Donna K. Ross, all of Whitley City, Kentucky;* to join the Ross Family Group, a group acting in concert, to acquire voting shares of McCreary Bancshares, Inc., and thereby indirectly acquire voting shares of United Cumberland Bank, both of Whitley City, Kentucky.

B. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309; Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Melessa Gail Ruth, Savannah, Tennessee, as trustee of the PB Bancshares Inc. ESOP (ESOP), Clifton, Tennessee;* to retain voting shares of PB Bancshares, Inc., and thereby indirectly

retain voting shares of People Bank, both of Clifton, Tennessee. ESOP owns PB Bancshares, Inc.

B. Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 N Pearl St., Dallas, Texas 75201. Comments can also be sent electronically to *Comments.applications@dal.frb.org:*

1. *The A.J. Lewis, Jr. GST Exempt Trust fbo A.J. Lewis III, A.J. Lewis III, as trustee, the A.J. Lewis, Jr. GST Exempt Trust fbo Steve C. Lewis, Steve C. Lewis, as trustee, and the A.J. Lewis, Jr. GST Exempt Trust fbo Laurie L. Saunders, Laurie L. Saunders, as trustee, all of San Antonio, Texas;* to join the Lewis Family Control Group, a group acting in concert, to retain voting shares of Jefferson Bancshares, Inc., and thereby indirectly retain voting shares of Jefferson Bank, both of San Antonio, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–05865 Filed 3–21–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association.

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 whether the proposed transaction complies with the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 April 21, 2023.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *PFS Bancorp, Inc., Peru, Illinois;* a newly formed Maryland corporation, to become a savings and loan holding company by acquiring Peru Federal Savings Bank, Peru, Illinois, in connection with the mutual-to-stock conversion of Peru Federal Savings Bank.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–05870 Filed 3–21–23; 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 April 21, 2023.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *BV Financial, Inc., Sparrows Point, Maryland;* to merge with Bay-Vanguard, M.H.C., Inc., Sparrows Point, Maryland, in connection with the proposed conversion of Bay-Vanguard, M.H.C., Inc. from the mutual to stock form. BV Financial, Inc. would remain the parent company of BayVanguard Bank, Sparrows Point, Maryland.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–05864 Filed 3–21–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the Ethiopian Public Health Institute

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the award of approximately $12,000,000, for Year 1 funding to the Ethiopian Public Health Institute (EPHI). The award will address gaps identified in national HIV laboratory and surveillance systems and pave the way for HIV epidemic control in Ethiopia.

DATES: The period for this award will be September 30, 2023, through September 29, 2028. Funding amounts for years 2–5 will be set at continuation.

FOR FURTHER INFORMATION CONTACT: Yared Tedla, Center for Global Health, Centers for Disease Control and Prevention, U.S. Embassy, P.O. Box

1014, Addis Ababa, Ethiopia, Telephone: 404.718.4293, E-Mail: *xzj9@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will support an integrated laboratory system for multiplexing testing of HIV, TB, and other pathogens in an optimized diagnostic network using point-of-care or conventional platforms. Routine viral load monitoring will be scaled up to reach all eligible clients on treatment, with consideration of alternate specimen collection modalities, and cold chain infrastructure.

The Ethiopian Public Health Institute (EPHI) is in a unique position to conduct this work, as it is the sole federal government agency accountable to the Ministry of Health (MOH) that is mandated to oversee and coordinate the following main areas of work: undertake research; generate, absorb and disseminate scientific knowledge to improve public health; conduct surveillance for detection and monitoring of public health risks; ensure adequate response to public health emergencies; and strengthen national laboratory capacity to support effective public health responses, carryout diagnostic and analytical tests, and build laboratory capacity nationwide to enable the provision of quality laboratory services.

Summary of the Award:

Recipient: Ethiopian Public Health Institute (EPHI).

Purpose of the Award: The purpose of this award is to address gaps identified in national HIV laboratory and surveillance systems and pave the way for HIV epidemic control in Ethiopia.

Amount of Award: The approximate year 1 funding amount will be $12,000,000 in Federal Fiscal Year (FFY) 2023 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Period of Performance: September 30,2023 through September 29, 2028.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Dated: March 16, 2023.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–05822 Filed 3–21–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the Government of Botswana

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the award of approximately $10,000,000, for Year 1 funding to the Government of Botswana (GOB). The award will strengthen GOB capacity to develop and implement programmatic activities that orient the Ministry of Health (MOH) towards ensuring ownership, accountability, and capacity to manage a sustained HIV national response, decrease TB/HIV morbidity and mortality, and improve capacity to effectively respond to emerging diseases of public health interest.

DATES: The period for this award will be September 30, 2023, through September 29, 2028. Funding amounts for years 2–5 will be set at continuation.

FOR FURTHER INFORMATION CONTACT: Lisa Esapa, Center for Global Health, Centers for Disease Control and Prevention, PO Box 90 Gaborone, Botswana, Telephone: +267 71337799, E-Mail: *hww5@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will prioritize helping the Government of Botswana (GOB) to sustain epidemic control and build enduring capabilities for the Ministry of Health (MOH).

GOB is in a unique position to conduct this work, as it has the authority to lead and coordinate provision of HIV services in the country.

Summary of the Award

Recipient: Government of Botswana (GOB).

Purpose of the Award: The purpose of this award is to strengthen GOB capacity to develop and implement programmatic activities that orient the MOH towards ensuring ownership, accountability, and capacity to manage a sustained HIV national response, decrease TB/HIV morbidity and mortality, and improve capacity to effectively respond to emerging diseases of public health interest.

Amount of Award: The approximate year 1 funding amount will be $10,000,000 in Federal Fiscal Year (FFY) 2023 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Period of Performance: September 30,2023 through September 29, 2028.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Dated: March 16, 2023.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–05821 Filed 3–21–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the Gambella Regional Health Bureau of Ethiopia

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the award of approximately $8,000,000, for Year 1 funding to the Gambella Regional Health Bureau (GRHB). The award will improve the capacity of HIV program management and quality of health services to attain epidemic control in the Gambella Regional State of Ethiopia.

DATES: The period for this award will be September 30, 2023, through September 29, 2028. Funding amounts for years 2–5 will be set at continuation.

FOR FURTHER INFORMATION CONTACT: Matthew Brown, Center for Global Health, Centers for Disease Control and Prevention, U.S. Embassy, P.O. Box 1014, Addis Ababa, Ethiopia, Telephone: 404–806–9619, E-Mail: *zjc5@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will support the delivery of comprehensive HIV prevention, care and treatment activities in the Gambella region of Ethiopia.

The Gambella Regional Health Bureau (GRHB) is in a unique position to conduct this work, as it is the only government entity with a legal authority and mandate to plan, manage, administer, and coordinate all health-related activities in Gambella.

Summary of the Award

Recipient: Gambella Regional Health Bureau (GRHB) of Ethiopia.

Purpose of the Award: The purpose of this award is to improve the capacity of HIV program management and quality of health services to attain epidemic control in the Gambella Regional State of Ethiopia.

Amount of Award: The approximate year 1 funding amount will be $8,000,000 in Federal Fiscal Year (FFY) 2023 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Period of Performance: September 30,2023 through September 29, 2028.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Dated: March 16, 2023.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–05824 Filed 3–21–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Public Health Institute of Malawi

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $1,000,000, for Year 1 funding to the Public Health Institute of Malawi (PHIM). The award will allow PHIM to efficiently execute Malawi's essential public health functions at national and subnational levels and sustain gains achieved for HIV.

DATES: The period for this award will be September 30, 2023, through September 29, 2028. Funding amounts for years 2–5 will be set at continuation.

FOR FURTHER INFORMATION CONTACT: Nellie Wadonda-Kabondo, Center for Global Health, Centers for Disease Control and Prevention, C/O American Embassy, Box 30016, Lilongwe, Telephone: +265882991033, EMail: *vzn7@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will enhance national HIV surveillance and response and strengthen the public health infrastructure and capacity to respond to public health threats and events, including infectious disease outbreaks, pandemics, and other public health emergencies.

The Public Health Institute of Malawi (PHIM) is in a unique position to conduct this work, as The Government of Malawi through the Ministry of Health (MOH) established PHIM in November 2012 with a view to creating a center of excellence on public health that contributes towards quality and productive life of all Malawians.

Summary of the Award

Recipient: Public Health Institute of Malawi (PHIM).

Purpose of the Award: The purpose of this award is for PHIM to efficiently execute Malawi's essential public health functions at national and subnational levels and sustain gains achieved for HIV.

Amount of Award: The approximate year 1 funding amount will be $1,000,000 in Federal Fiscal Year (FYY) 2023 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Non-PEPFAR Funding: This program is authorized under sections 301(a) and 307 of the Public Health Service Act, as amended [42 U.S.C. 241(a) and 2421].

Period of Performance: September 30,2023 through September 29, 2028.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Dated: March 16, 2023.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–05823 Filed 3–21–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of the Assistant Secretary for Children and Families, Administration on Children, Youth and Families; Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration for Children and Families, HHS

ACTION: Notice.

SUMMARY: The Administration for Children and Families (ACF) has added a new office, the Office of Family Violence Prevention and Services, to the Office of the Assistant Secretary for Children and Families and transfers the functions of the Division of Family Violence Prevention and Services to this office. Within the Administration on Children, Youth and Families (ACYF), it renames the Office of Management Services to the Executive Office. Within the Family and Youth Services Bureau (FYSB), it renames the Division for Optimal Adolescent Development to the Division of Positive Youth Development and renames the Division of Evaluation, Data, and Policy to the Division of Data, Performance, and Policy. It also creates an Office of Budget in the Office of the Assistant Secretary for Children and Families.

DATES: This reorganization was approved by the Secretary of Health and Human Services on March 1, 2023, and took effect on March 17, 2023.

FOR FURTHER INFORMATION CONTACT: Shawndell Dawson, Division of Family Violence Prevention and Services, 330 C Street SW, Washington, DC 20201, (202) 205–1476.

SUPPLEMENTARY INFORMATION: This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration for Children and Families (ACF) as follows: Chapter KA, Office of the Assistant Secretary for Children and Families, as last amended by 85 FR 52607, March 26, 2020, and Chapter KB, Administration on Children, Youth and Families (ACYF), as last amended in 85 FR 15785, March 19, 2020. The changes are as follows:

I. Under Chapter KA, Office of the Assistant Secretary for Children and Families, make the following changes:

A. Delete KA.00 Mission in its entirety and replace with the following:

KA.00 Mission. The Office of the Assistant Secretary for Children and Families (OAS) provides executive direction, leadership, and guidance for all ACF programs. OAS provides national leadership to develop and coordinate public and private initiatives for carrying out programs that promote permanency placement planning, family stability, and self-sufficiency. OAS advises the Secretary on issues affecting America's children and families, including Native Americans, refugees, survivors of domestic violence, youth experiencing homelessness, children and families in the child welfare system, and survivors of human trafficking. OAS provides leadership and coordination on human services and early childhood

development issues and conducts emergency preparedness and response operations during a nationally declared emergency.

B. Delete KA.10 Organization in its entirety and replace with the following:

KA.10 Organization. The Office of the Assistant Secretary for Children and Families is headed by the Assistant Secretary for Children and Families who reports directly to the Secretary and consists of:

Office of the Assistant Secretary for Children and Families (KA)
Executive Secretariat Office (KAF)
Office of Human Services Emergency Preparedness and Response (KAG)
Office of the Deputy Assistant Secretary and Inter-Departmental Liaison for Early Childhood Development (KAH)
Office on Trafficking in Persons (KAI)
Office of Family Violence Prevention and Services (KAJ)
Office of Budget (KAK)

C. Establish KA.20 Functions, Paragraph F, The Office of Budget:

F. The Office of Budget manages the formulation and execution of the budgets for OAS programs and OAS' portion of the federal administration budget, serves as the central control point for operational and long range planning, manages procurement planning and provides technical assistance regarding procurement, acquires OAS supplies, provides oversight and technical assistance on funds planning for travel expenditures and travel administration on obligation and payment issues, monitors the obligation and expenditure of OAS funds through the lifecycle of the appropriations, and provides leadership and advice on financial policy issues that cut across all the OAS program and funding mechanisms.

D. Establish KA.20 Functions, Paragraph G, The Office of Family Violence Prevention and Services:

G. The Office of Family Violence Prevention and Services (KAJ):

The Office of Family Violence Prevention and Services (OFVPS) is responsible for the overall leadership of family violence, domestic violence, and dating violence prevention, intervention, response, and awareness programs and services under the purview of ACF. The OFVPS serves as an advisor to the Assistant Secretary, ACF, recommending policy strategies and interagency collaborations to address the coordination of services involving domestic violence survivors and their children. Under the leadership of the Assistant Secretary, ACF, OFPVS assesses policies and legislation, and develops program initiatives for domestic violence and dating violence prevention and services. OFVPS recommends budgetary and legislative proposals and subject areas for research/evaluation and demonstration activities, and it coordinates efforts with and provides expert advice to departmental and other federal agencies on issues and programs for survivors of domestic violence and their children. The OFVPS promotes public awareness about family violence, domestic violence, and dating violence. The OFVPS also promotes awareness about the impact of family violence, and effective prevention and intervention strategies to address the problem. The OFVPS programs provide immediate shelter and related assistance to survivors of domestic violence, dating violence, and family violence and their dependents; provide for research into the most effective methods of domestic violence prevention, identification, and intervention; and provide training and technical assistance to domestic violence and dating violence programs including states, territories, tribes, coalitions, culturally specific organizations, rural communities, faith-based organizations, local public agencies (such as early childhood programs, social service agencies, child welfare programs, mental health and substance abuse treatment programs, and health care providers), and non-profit organizations. The OFVPS provides support for the National Domestic Violence Hotline, which operates 24 hours a day, 7 days a week and is available in 200 languages, including services in Spanish, video and/or text chat for Deaf and Hard of Hearing survivors, and culturally specific response to Native American victims by Native advocates. The OFVPS supports the development of services to address the needs of children exposed to domestic violence and their abused parents.

The OFVPS is responsible for developing, updating, and implementing program regulations and policies. The OFVPS oversees the receipt and review of applications for formula and discretionary grants and grantee activities. It also provides guidance, review, support, and assistance to states, territories, tribes, coalitions, resource centers, hotlines, and sub awardees on HHS policies, regulations, procedures, and systems necessary to ensure efficient program operation at the state, territorial, tribal, and community levels. In addition, the OFVPS coordinates shelter and supportive service programs for survivors and potential victims of domestic violence, dating violence, and family violence and their dependents. OFVPS also represents ACF and HHS on various councils, workgroups, and committees and provides leadership and coordination to other ACF and HHS programs and agencies to better meet the needs of domestic violence and dating violence survivors.

II. Under Chapter KB, Administration on Children, Youth and Families, delete KB in its entirety and replace with the following:

KB.00 Mission. The Administration on Children, Youth and Families (ACYF) advises the Secretary, through the Assistant Secretary for Children and Families, on matters relating to the sound development of children, youth, and families by planning, developing, and implementing a broad range of activities that prevent or remediate the effects of trauma, abuse, and/or neglect of children and youth and promote child, adolescent, and family wellbeing.

ACYF administers state grant programs under titles IV–B and IV–E of the Social Security Act, manages the Adoption Opportunities program and other discretionary programs for the development and provision of child welfare services, and implements the Child Abuse Prevention and Treatment Act (CAPTA). It administers programs under the Runaway and Homeless Youth Act and manages prevention programs that support positive adolescent development and wellbeing authorized through Title V of the Social Security Act under Section 510 for Sexual Risk Avoidance Education and Section 513 for Personal Responsibility Education Program.

In concert with other components of ACF, ACYF develops and implements research, demonstration, and evaluation strategies for the discretionary funding of activities designed to improve and enrich the lives of children and youth and to strengthen families. It administers Child Welfare Services training and research and demonstration programs authorized by title IV–B of the Social Security Act and oversees promising youth development programs.

KB.10 Organization. The Administration on Children, Youth and Families is headed by a commissioner, who reports directly to the Assistant Secretary for Children and Families, and consists of:

Office of the Commissioner (KBA)
Executive Office (KBA1)
Office Of Budget (KBA2)
Children's Bureau (KBD)
Children's Bureau Regional Program Units (KBDDI–X)
Office of Child Abuse and Neglect (KBD1)

Division of Policy (KBD2)
Division of Program Implementation (KBD3)
Division of Program Innovation (KBD4)
Division of Child Welfare Capacity Building (KBD5)
Division of State Systems (KBD6)
Division of Performance Measurement and Improvement (KBD7)
Family and Youth Services Bureau (KBE)
Division of Positive Youth Development (KBE1)
Division of Data, Performance, and Policy (KBE3)
Division of Runaway and Homeless Youth (KBE4)

KB.20 Functions. A. The Office of the Commissioner serves as principal advisor to the Assistant Secretary for Children and Families, the Secretary, and other officials of the Department on the sound development of children, youth, and families. It provides executive direction and management strategy to ACYF components. The Deputy Commissioner assists the Commissioner in carrying out the responsibilities of the Office. The Office of the Commissioner is comprised of two offices:

The Executive Office functions as Executive Secretariat for the Office of the Commissioner, including managing correspondence, correspondence systems, and electronic mail requests; coordinates the provision of staff development and training; provides support for ACYF's personnel administration, including staffing, employee and labor relations, performance management, and employee recognition; manages ACYF-controlled space and facilities; performs manpower planning and administration; plans for, distributes, and controls ACYF supplies; provides mail and messenger services; maintains duplicating, fax, and computer and computer peripheral equipment; supports and manages automation within ACYF; provides for health and safety; and oversees travel administration, time and attendance, and other administrative functions for ACYF.

The Office of Budget manages the formulation and execution of the budgets for ACYF programs and for federal administration, serves as the central control point for operational and long range planning, manages procurement planning and provides technical assistance regarding procurement, acquires ACYF supplies, provides oversight and technical assistance on funds planning for travel expenditures and travel administration on obligation and payment issues, monitors the obligation and expenditure of ACYF funds through the lifecycle of the appropriations, and provides leadership and advice on financial policy issues that cut across all the ACYF program and funding mechanisms.

B. The Children's Bureau (CB) is headed by an Associate Commissioner who advises the Commissioner, ACYF, on matters related to the administration of state and tribal child welfare systems, including child abuse and neglect, child protective services, family preservation and support, adoption, foster care and independent living, and child abuse and neglect prevention. A Deputy Associate Commissioner supports the Associate Commissioner and manages the day-to-day operations of the CB. CB recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research, and demonstration activities. CB represents ACYF in initiating and implementing interagency activities and projects affecting children and families, and provides leadership and coordination for the programs, activities, and subordinate components of the Bureau. The Bureau is comprised of eight units:

The Regional Program Unit is headed by the Director of Regional Programs who reports to the Deputy Associate Commissioner, CB, within ACYF. The Director of Regional Programs, through subordinate Regional Program Managers and their staff, in collaboration with program components, is responsible for (1) providing program and technical administration of CB formula, entitlement, block, and discretionary programs related to child welfare, including child abuse and neglect prevention, child protective services, family preservation and support, adoption, foster care, and independent living; (2) collaborating with the ACF Central Office, states, and grantees on all program matters for programs or issues that have significant implications for the programs; (3) providing technical assistance to entities responsible for administering CB programs to resolve identified problems; (4) ensuring that appropriate procedures and practices are adopted; (5) working with appropriate state and local officials to develop and implement outcome-based performance measures; and (6) monitoring the programs to ensure their efficiency and effectiveness, and ensuring that these entities conform to federal laws, regulations, policies, and procedures governing the programs.

The Office on Child Abuse and Neglect provides leadership and direction on the issues of child maltreatment and the prevention of abuse and neglect under CAPTA. It is the focal point for interagency collaborative efforts, national conferences, and special initiatives related to child abuse and neglect, and for coordinating activities related to the prevention of abuse and neglect and the protection of children at risk of maltreatment. It supports activities to build networks of community-based, prevention-focused family resource and support programs through the Community-Based Child Abuse Prevention Grants. It supports improvement in the state systems that handle child abuse and neglect cases, particularly child sexual abuse and exploitation- and maltreatment-related fatalities, and improvement in the investigation and prosecution of these cases through the Children's Justice Act.

The Division of Policy provides leadership and direction in policy development and interpretation of titles IV–B and IV–E of the Social Security Act and the Basic State Grant under CAPTA. It writes regulations and interprets policy for the Bureau's formula and entitlement grant programs and responds to requests for policy clarification from ACF Regional Offices and other sources.

The Division of Program Implementation provides leadership and direction in the operation and review of programs under titles IV–B and IV–E of the Social Security Act and the Basic State Grant under CAPTA. It develops program instructions, information memoranda, and annual reports related to these programs. It analyzes State Plans and develops state profiles and other reports. It is responsible for the Monitoring Team, which schedules and coordinates the monitoring of the state title IV–E reviews and ensures effective corrective action if necessary. It is the focal point for financial issues, including disallowances, appeals, and the decisions of the Departmental Appeals Board (DAB).

The Division of Program Innovation provides leadership and direction in program development, innovation, and research. It defines critical issues for investigation and makes recommendations regarding subject areas for research, demonstration, and evaluation. It administers the Bureau's discretionary grant programs and awards project grants to state and local agencies and organizations nationwide.

The Division of Child Welfare Capacity Building provides leadership

and direction in the areas of training, technical assistance, and information dissemination under titles IV–B and IV–E of the Social Security Act, and under CAPTA. Either directly or through grants or contracts, it provides training and technical assistance to assist service providers, state and local governments, and tribes. It manages discretionary training grants under section 426 of the Social Security Act and title IV–E training and directs the operations and activities of statutorily mandated clearinghouses. The Division identifies best practices for treating vulnerable families and preventing abuse and neglect. It participates in the development of funding opportunity announcements and manages certain discretionary grant projects.

The Division of State Systems (DSS) reviews, assesses, and inspects the planning, design, and operation of state management information systems and approves advanced planning documents for automated data systems. The Division provides leadership for the provision of technical assistance to states on information systems projects and advances the use of computer technology in the administration of child welfare and social services programs by states. The Division reviews, analyzes, and approves/disapproves state requests for federal financial participation for automated systems development and related activities that support child welfare programs, including foster care and adoption. It provides assistance to states in developing or modifying automation plans to conform to federal requirements, monitors approved state system development activities, and conducts periodic reviews to ensure state compliance with regulatory requirements applicable to automated systems supported by federal financial participation. It provides guidance to states on functional requirements for these automated information systems.

The Division of Performance Measurement and Improvement provides oversight in the collection, analysis, and reporting of state-level data reported to CB through mandated data collections; oversees an outcomes-oriented review of state child welfare systems; and sets, tracks, and reports on performance indicators in response to the Government Performance and Results Act and other performance-oriented mandates. The Division is comprised of two teams. The Data Analytics and Reporting Team collects, analyzes, and disseminates program data from the Adoption and Foster Care Analysis and Reporting System (AFCARS), the National Youth in Transition Database (NYTD), and the National Child Abuse and Neglect Data Systems (NCANDS); ensures accuracy of data reporting; develops systematic methods of measuring the impact and effectiveness of various child welfare programs; and performs statistical sampling functions. The Child and Family Services Review Team, in partnership with CB's Regional Program Units, carries out reviews of child protection, foster care, adoption, family preservation, family support, and independent living services provided by the states. The Child and Family Services Review Team ensures the accuracy and consistency of the review protocol across all states of the review process and in subsequent program improvement efforts.

C. The Family and Youth Services Bureau (FYSB) is headed by an Associate Commissioner who recommends policy direction and programs to address issues involving vulnerable, at-risk youth and their families to the Commissioner, ACYF. FYSB supports the organizations and communities working to prevent and respond to youth homelessness, youth at risk of trafficking and sexual exploitation, and promote positive adolescent health and development through programs that provide shelter, community services, and prevention education for youth, adults, and families.

A Deputy Associate Commissioner supports the Associate Commissioner and manages the day-to-day operations of FYSB. The Bureau assesses and recommends policies, data and performance measures, and legislation and develops program initiatives to support youth who have or are at-risk of leaving home due to family conflict or other crisis, youth experiencing or at risk of experiencing homelessness or sexual exploitation, and adolescent development and wellbeing. FYSB recommends budgetary and legislative proposals, operational planning initiatives, and projects and subject areas for research, evaluation, and demonstration activities. FYSB coordinates efforts with and provides expert advice to departmental and other federal agencies on supporting vulnerable youth, including youth who have run away from home due to family conflict or other crises, youth experiencing or at risk of experiencing homelessness or housing instability; youth at risk of trafficking, sexual exploitation, or violent crime victimization; youth at risk of unplanned pregnancy or becoming teen parents; and any youth in at-risk situations. FYSB represents HHS on various councils, workgroups, and committees and provides leadership and coordination to other HHS programs and Federal agencies working to address youth homelessness, youth at risk of trafficking and sexual exploitation, and positive adolescent development and wellbeing. The Bureau is comprised of three Divisions:

The Division of Data, Performance, and Policy (DPP) provides leadership and direction for FYSB, informing program and policy development and innovation through evaluation strategies and data analysis for youth experiencing or at risk of homelessness, youth at risk of trafficking, adolescent pregnancy prevention, and promotion of adolescent health and wellbeing. The Division leads the management of the legislatively mandated data information systems and all evaluation efforts within FYSB. The Division directs evaluation efforts to include study design; instrument development; and rigorous, methodological approaches; and conducts analysis of data to inform the policy and program priorities of FYSB programs. The Division develops and implements FYSB's standard measures for evaluating program performance for the improvement of services to vulnerable populations. It oversees collection of FYSB's performance standards and performance measurement process, evaluation strategies, development of program outcomes, and the synthesis of data to inform and support innovation for each program. The Division provides leadership and direction in policy development and policy analysis of legislation and budget proposals, responds to requests for policy clarification, and assesses the impact of authorizing legislations on FYSB's programs. The Division provides recommendations to the Associate Commissioner and Deputy Associate Commissioner on strategic priorities, policy direction, and programmatic improvements to address issues impacting vulnerable youth and their families and adolescent health and wellbeing. The Division also works collaboratively across ACF and with strategic partnerships and identifies issue areas for evaluation, research, and demonstration initiatives.

The Division of Positive Youth Development administers an array of prevention services to address the wellbeing of adolescents by funding projects to states, tribes, and community-based organizations to provide education to youth (and their families) on how to prevent teen pregnancy and the spread of sexually transmitted infections, including HIV/

AIDS, and skills training to promote healthy relationships and healthy life skills. The Division supports the implementation of evidence-based, age-appropriate, and medically accurate models, including intervention strategies that support the successful transition of youth through adolescence and into adulthood with a holistic approach to teaching the benefits of healthy decision-making, healthy relationships, and mental health and wellbeing. The Division provides technical support to ensure compliance with programmatic and fiscal requirements of programs across all funding streams, as directed by the application of federal policy, regulations, and laws. The Division researches and develops conceptual models pertaining to adolescent sexual health and wellbeing, monitors funded programs, and ensures the provision of technical assistance and training through contracts, cooperative agreements, and Interagency Agreements. This includes the development and management of a social media marketing campaign to provide messaging to youth on positive adolescent development and wellbeing.

The Division of Runaway and Homeless Youth administers prevention, crisis response, shelter, and supportive services to youth and young adults who have run away from home due to family conflict or other crisis or are experiencing homelessness or housing instability. The Division administers the runaway and homeless youth program that incorporates the Basic Center, Street Outreach, Transitional Living, and Maternity Group Home programs. The Division also conducts development and implementation of policy, guidance, and regulations concerning the funding and management of service projects for youth in compliance with the Runaway and Homeless Youth Act. The Division designs, develops, funds, and monitors support activities related to RHY programs including, but not limited to, the provision of technical assistance, executing a monitoring system, maintaining a requisite data collection system, the Runaway and Homeless Youth Training and Technical Assistance Center, the National Clearinghouse on Homeless Youth and Families, and the National Runaway Safeline. The Division oversees the receipt and review of applications for discretionary grants in these program areas and monitors the management of these grants through monthly contacts and on-site visits through the ACF Regional Offices.

III. Continuation of Policy. Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to organizational components affected by this notice within ACF, heretofore issued and in effect on this date of this reorganization are continued in full force and effect.

IV. Delegation of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

V. Funds, Personnel, and Equipment. Transfer of organizations and functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies, and other resources.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2023–05366 Filed 3–20–23; 11:15 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2019–E–3293 and FDA–2019–E–3294]

Determination of Regulatory Review Period for Purposes of Patent Extension; MULPLETA

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 MULPLETA 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 **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by May 22, 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 September 18, 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 May 22, 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–2019–E–3293 and FDA–2019–E–3294 for ''Determination of Regulatory Review Period for Purposes of Patent

Extension; MULPLETA.'' 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, MULPLETA (lusutrombopag) indicated for treatment of thrombocytopenia in adult patients with chronic liver disease who are scheduled to undergo a procedure. Subsequent to this approval, the USPTO received patent term restoration applications for MULPLETA (U.S. Patent Nos. 7,601,746 and 8,889,722) from Shionogi & Co., Ltd. and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated October 29, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of MULPLETA 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 MULPLETA is 3,464 days. Of this time, 3,246 days occurred during the testing phase of the regulatory review period, while 218 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:* February 6, 2009. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on February 6, 2009.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* December 26, 2017. FDA has verified the applicant's claim that the new drug application (NDA) for MULPLETA (NDA 210923) was initially submitted on December 26, 2017.

3. *The date the application was approved:* July 31, 2018. FDA has verified the applicant's claim that NDA 210923 was approved on July 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 applications for patent extension, this applicant seeks 784 days or 1,715 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: March 16, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–05799 Filed 3–21–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2019–E–3295 and FDA–2019–E–3200]

Determination of Regulatory Review Period for Purposes of Patent Extension; GALAFOLD

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 GALAFOLD 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 **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by May 22, 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 September 18, 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 May 22, 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 Nos. FDA–2019–E–3295 and FDA–2019–E–3200 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; GALAFOLD.'' 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, GALAFOLD (migalastat) indicated for the treatment of adults with a confirmed diagnosis of Fabry Disease and an amenable galactosidase alpha gene variant based on in vitro assay data. This indication is approved under accelerated approval based on reduction in kidney interstitial capillary cell globotriaosylceramide substrate. Continued approval for this indication may be contingent upon verification and description of clinical benefit in confirmatory trials. Subsequent to this approval, the USPTO received patent term restoration applications for GALAFOLD (U.S. Patent Nos. 8,592,362 and 9,000,011) from Amicus Therapeutics, Inc. and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated October 29, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of GALAFOLD 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 GALAFOLD is 5,132 days. Of this time, 4,891 days occurred during the testing phase of the regulatory review period, while 241 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:* July 24, 2004. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 24, 2004.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* December 13, 2017. FDA has verified the applicant's claim that the new drug application (NDA) for GALAFOLD (NDA 208623) was initially submitted on December 13, 2017.

3. *The date the application was approved:* August 10, 2018. FDA has verified the applicant's claim that NDA 208623 was approved on August 10, 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 applications for patent extension, this applicant seeks 732 days or 980 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: March 17, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–05897 Filed 3–21–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that

may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on February 1, 2023, through February 28, 2023. This list provides the name of the petitioner, city, and state of vaccination (if unknown then the city and state of the person or attorney filing the claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Health Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (*Petitioner's Name* v. *Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Carole Johnson,

Administrator.

List of Petitions Filed

1. Thomas Fiumara, Medford, Massachusetts, Court of Federal Claims No: 23–0138V
2. Darren J. Bunton, Indianapolis, Indiana, Court of Federal Claims No: 23–0139V
3. Christina Orton, Phoenix, Arizona, Court of Federal Claims No: 23–0140V
4. Teagan Grabish, Lynden, Washington, Court of Federal Claims No: 23–0141V
5. Samantha Seager, Phoenix, Arizona, Court of Federal Claims No: 23–0142V
6. Sonya Davee, Mattoon, Illinois, Court of Federal Claims No: 23–0148V
7. Ariane Yango on behalf of N.Y., San Jose, California, Court of Federal Claims No: 23–0150V
8. Anthony Blei, Phoenix, Arizona, Court of Federal Claims No: 23–0151V
9. Melinda Adams, Portsmouth, Ohio, Court of Federal Claims No: 23–0153V
10. Barbara Bennett, Hudson, New York, Court of Federal Claims No: 23–0154V,
11. Huda Ahmed, Elmhurst, Illinois, Court of Federal Claims No: 23–0155V
12. Kristine Zuggi on behalf of I.Z., Deceased, Phoenix, Arizona, Court of Federal Claims No: 23–0161V
13. John Jennings, Boston, Massachusetts, Court of Federal Claims No: 23–0162V
14. Matthew J. Koehler, Rochester, New York, Court of Federal Claims No: 23–0163V
15. Ralph Devito, Manchester, New Jersey, Court of Federal Claims No: 23–0164V
16. Emily Mercer, Phoenix, Arizona, Court of Federal Claims No: 23–0168V
17. Haley Phillippi, Phoenix, Arizona, Court of Federal Claims No: 23–0169V
18. Edward Ladwig, Boston, Massachusetts, Court of Federal Claims No: 23–0170V
19. Charles Lindsey, Lawrenceville, Georgia, Court of Federal Claims No: 23–0171V
20. Claire Paul, Atlanta, Georgia, Court of Federal Claims No: 23–0172V
21. Aaron Ford, Phoenix, Arizona, Court of Federal Claims No: 23–0177V
22. Cristina Frank, Pennsville, New Jersey, Court of Federal Claims No: 23–0178V
23. Hyun Lee, Kernersville, North Carolina, Court of Federal Claims No: 23–0179V
24. Karen McLaughlin, East Ridge, Tennessee, Court of Federal Claims No: 23–0180V
25. Amy Vanus, Dresher, Pennsylvania, Court of Federal Claims No: 23–0181V
26. Aiman Al-Hiyari, Rochester, New York, Court of Federal Claims No: 23–0183V
27. Oneil Walker, New Haven, Connecticut, Court of Federal Claims No: 23–0184V
28. Patricia Corcoran, Brewster, New York, Court of Federal Claims No: 23–0186V
29. Molly McBride, Columbia, Missouri, Court of Federal Claims No: 23–0190V
30. Amie Luk, Katy, Texas, Court of Federal Claims No: 23–0191V
31. Dale McCormick, Bryan, Ohio, Court of Federal Claims No: 23–0193V
32. Joseph Meier, Walnut Creek, California, Court of Federal Claims No: 23–0195V
33. Ann Tonjes, Westmont, Illinois, Court of Federal Claims No: 23–0196V
34. Krystel Hannon, Spartanburg, South Carolina, Court of Federal Claims No: 23–0197V
35. Ashlee M. Hong, Thousand Oaks, California, Court of Federal Claims No: 23–0198V
36. James McGinnis, Waynesboro, Virginia, Court of Federal Claims No: 23–0199V
37. Lindsay Anderson on behalf of A.B., Indianapolis, Indiana, Court of Federal Claims No: 23–0200V
38. Michele Plucinsky, Plantation, Florida, Court of Federal Claims No: 23–0201V
39. Patricia Baumann, Dunkirk, Maryland, Court of Federal Claims No: 23–0204V
40. Erny Pope, Leesburg, Virginia, Court of Federal Claims No: 23–0205V
41. Julie Johnson, Rochester, Minnesota, Court of Federal Claims No: 23–0206V
42. Tracy Chapman, Jacksonville, Florida, Court of Federal Claims No: 23–0207V
43. Julia Hill, Lakewood, Washington, Court of Federal Claims No: 23–0208V
44. Lewis von Almen, Addison, Illinois, Court of Federal Claims No: 23–0212V
45. Melanie Hoard on behalf of R.H., Phoenix, Arizona, Court of Federal Claims No: 23–0213V
46. Jamie Walton, Houston, Texas, Court of Federal Claims No: 23–0214V
47. Jean Francois Daneault, Westfield, New Jersey, Court of Federal Claims No: 23–0215V
48. Anson K. Au, Sacramento, California, Court of Federal Claims No: 23–0216V
49. Christy Allen on behalf of E.A., Phoenix, Arizona, Court of Federal Claims No: 23–0219V
50. Annalise Gratovich, Phoenix, Arizona, Court of Federal Claims No: 23–0220V
51. Tricia Unrath on behalf of A.U., Phoenix, Arizona, Court of Federal Claims No: 23–0221V
52. Taryn Keeshan on behalf of L.K., Phoenix, Arizona, Court of Federal Claims No: 23–0223V
53. Ronald Havens, Arcadia, California, Court of Federal Claims No: 23–0225V
54. Samantha Dotson, Cynthiana, Kentucky, Court of Federal Claims No: 23–0227V
55. Jennifer Barrios and Michael Barrios on behalf of B.H.B., Long Beach, California, Court of Federal Claims No: 23–0230V
56. Aklilu Keflezighi, La Mesa, California, Court of Federal Claims No: 23–0233V
57. Rivkalaia Rokeach, Brooklyn, New York, Court of Federal Claims No: 23–0234V
58. Debbie Nease Bohannon on behalf of Braydon Bohannon, Oakdale, California, Court of Federal Claims No: 23–0235V
59. Antonia Dejesus, Englewood, New Jersey, Court of Federal Claims No: 23–0236V
60. Lisa Kurdziel, Hoboken, New Jersey, Court of Federal Claims No: 23–0237V

61. Lee Yuill, Huntsville, Alabama, Court of Federal Claims No: 23–0238V
62. Jose Garcia, Dinuba, California, Court of Federal Claims No: 23–0240V
63. Nicholas Watkins, Rockford, Michigan, Court of Federal Claims No: 23–0241V
64. Timothy Alexander, Albuquerque, New Mexico, Court of Federal Claims No: 23–0242V
65. Barry Griffiths, Manahawkin, New Jersey, Court of Federal Claims No: 23–0243V
66. Karol Schaeffer, York, Pennsylvania, Court of Federal Claims No: 23–0244V
67. Dreama Cleaver, Bellefontaine, Ohio, Court of Federal Claims No: 23–0245V
68. Kristen McCafferty, Phoenix, Arizona, Court of Federal Claims No: 23–0246V
69. Jennifer M. Cangas, Davenport, Iowa, Court of Federal Claims No: 23–0248V
70. Don Chambers, Abilene, Texas, Court of Federal Claims No: 23–0249V
71. Velinda Baker, Dayton, Ohio, Court of Federal Claims No: 23–0250V
72. Alvin Moody, Farmington, Connecticut, Court of Federal Claims No: 23–0251V
73. Benjamin Kane, Newburyport, Massachusetts, Court of Federal Claims No: 23–0252V
74. Peggy Evans, Dacula, Georgia, Court of Federal Claims No: 23–0254V
75. Richa Sharma, Reno, Nevada, Court of Federal Claims No: 23–0255V
76. Mary Ann Locke, Rochester, New York, Court of Federal Claims No: 23–0256V
77. Joseph Hernandez, West Bend, Wisconsin, Court of Federal Claims No: 23–0257V
78. Michael Erhart, Ottawa, Illinois, Court of Federal Claims No: 23–0258V
79. Andrea Walker, Washington, District of Columbia, Court of Federal Claims No: 23–0259V
80. Janice Caraballo, Waterbury, Connecticut, Court of Federal Claims No: 23–0260V
81. Nadia Noel, Phoenix, Arizona, Court of Federal Claims No: 23–0261V
82. Kristilee Maiella, Phoenix, Arizona, Court of Federal Claims No: 23–0262V
83. Vernon Scott, Rochester Hills, Michigan, Court of Federal Claims No: 23–0264V
84. Aaron Labelle, Marquette, Michigan, Court of Federal Claims No: 23–0265V
85. Shiloh Williams, Phoenix, Arizona, Court of Federal Claims No: 23–0266V
86. Andrea Leathers, Phoenix, Arizona, Court of Federal Claims No: 23–0268V
87. Dari Matilsky, Pomona, New York, Court of Federal Claims No: 23–0269V
88. Oana Repede, Raleigh, North Carolina, Court of Federal Claims No: 23–0270V
89. Wendy Newton, Boston, Massachusetts, Court of Federal Claims No: 23–0271V
90. Steele Campbell, Gilbert, Arizona, Court of Federal Claims No: 23–0272V
91. Doris Sawyers, Waynesboro, Mississippi, Court of Federal Claims No: 23–0273V
92. Debra Inman, Farmington, Illinois, Court of Federal Claims No: 23–0274V
93. Michael Edson, Pasadena, California, Court of Federal Claims No: 23–0275V
94. Kristen Hamlin, Greensboro, North Carolina, Court of Federal Claims No: 23–0278V
95. Eugene Lorenzo Wilson, New Lisbon, Wisconsin, Court of Federal Claims No: 23–0279V
96. Ryland Beutz, St. Cloud, Minnesota, Court of Federal Claims No: 23–0283V
97. Michael Ibarra, Houston, Texas, Court of Federal Claims No: 23–0284V
98. Srilatha Rachan, Mount Royal, New Jersey, Court of Federal Claims No: 23–0286V
99. Spencer Thornton, Castle Rock, Colorado, Court of Federal Claims No: 23–0287V
100. Thomas Worrell, Houston, Texas, Court of Federal Claims No: 23–0289V
101. Cathy Burgard, Mukilteo, Washington, Court of Federal Claims No: 23–0290V
102. Jordan Riccardi and Kiley Riccardi on behalf of G.R., Lakewood Ranch, Florida, Court of Federal Claims No: 23–0291V
103. Demonta L. Hambright. Milwaukee, Wisconsin, Court of Federal Claims No: 23–0292V
104. Samuel Smith and Jessica Smith on behalf of J.S., Sarasota, Florida, Court of Federal Claims No: 23–0293V
105. Annette Joseph-Gabriel and Steeve Joseph-Gabriel on behalf of A.J.G., Sarasota, Florida, Court of Federal Claims No: 23–0297V
106. Jon Eric Jensen, Chicago, Illinois, Court of Federal Claims No: 23–0299V

[FR Doc. 2023–05851 Filed 3–21–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

"Low-Income Levels" Used for Various Health Professions and Nursing Programs Authorized in the Public Health Service Act

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is updating income levels used to identify a ''low-income family'' for the purpose of determining eligibility for programs that provide health professions and nursing training to individuals from disadvantaged backgrounds. These various programs are authorized in the Public Health Service Act. HHS periodically publishes in the **Federal Register**, low-income levels to be used by institutions receiving grants or cooperative agreement awards to determine eligibility for programs providing training for disadvantaged individuals, individuals from disadvantaged backgrounds, or individuals from low-income families.

SUPPLEMENTARY INFORMATION: Many health professions and nursing grant and cooperative agreement awardees use the low-income levels to determine whether potential program participants are from economically disadvantaged backgrounds and would be eligible to participate in the program, as well as to determine the amount of funding individuals receive. Awards are generally made to accredited schools of medicine, osteopathic medicine, public health, dentistry, pharmacy, allied health, and nursing; public or private nonprofit schools which offer graduate programs in behavioral health and mental health practice; and other public or private nonprofit health or educational entities to assist individuals from disadvantaged backgrounds and disadvantaged students to enter and graduate from health professions and nursing schools. Some programs provide for the repayment of health professions or nursing education loans for students from disadvantaged backgrounds and disadvantaged students.

A ''low-income family/household'' for programs included in titles III, VII, and VIII of the Public Health Service Act is defined as having an annual income that does not exceed 200 percent of HHS's poverty guidelines. A family is a group of two or more individuals related by birth, marriage, or adoption who live together.

Most HRSA programs use the income of a student's parent(s) to compute low-income status. However, a ''household'' may potentially be only one person. Other HRSA programs, depending upon the legislative intent of the program, the programmatic purpose related to income level, as well as the age and circumstances of the participant, will apply these low-income standards to the individual student to determine eligibility, if the student is not listed as a dependent on the tax form of their parent(s). Each program includes the rationale and methodology for determining low-income levels in program funding opportunities or applications.

Low-income levels are adjusted annually based on HHS's poverty guidelines. HHS's poverty guidelines are based on poverty thresholds published by the U.S. Census Bureau, adjusted annually for changes in the Consumer Price Index. The income figures below have been updated to reflect HHS's 2023 poverty guidelines as published in the **Federal Register** at 88 FR 3424. See *https://www.govinfo.gov/content/pkg/FR-2023-01-19/pdf/2023-00885.pdf.*

LOW-INCOME LEVELS BASED ON THE 2023 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household *	Income level **
1	$29,160
2	39,440
3	49,720
4	60,000
5	70,280
6	80,560
7	$90,840
8	101,120

For families with more than 8 persons, add $10,280 for each additional person.

* Includes only dependents listed on Federal income tax forms.

** Adjusted gross income for calendar year 2022.

LOW-INCOME LEVELS BASED ON THE 2023 POVERTY GUIDELINES FOR ALASKA

Persons in family/household *	Income level **
1	$36,420
2	49,280
3	62,140
4	75,000
5	87,860
6	100,720
7	113,580
8	126,440

For families with more than 8 persons, add $12,860 for each additional person.

* Includes only dependents listed on Federal income tax forms.

** Adjusted gross income for calendar year 2022.

LOW-INCOME LEVELS BASED ON THE 2023 POVERTY GUIDELINES FOR HAWAII

Persons in family/household *	Income level **
1	$33,540
2	45,360
3	57,180
4	69,000
5	80,820
6	92,640
7	104,460
8	116,280

For families with more than 8 persons, add $11,820 for each additional person.

* Includes only dependents listed on Federal income tax forms.

** Adjusted gross income for calendar year 2022.

Separate poverty guidelines figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period since the U.S. Census Bureau poverty thresholds do not have separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico or other jurisdictions. Puerto Rico and other jurisdictions shall use income guidelines for the 48 Contiguous States and the District of Columbia.

Carole Johnson,

Administrator.

[FR Doc. 2023–05902 Filed 3–21–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Topics in Bacterial Pathogens, March 29, 2023, 10:00 a.m. to 7:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on March 03, 2023, 88 FR 42 DOC 2023–04410.

This meeting is being amended to change the contact person from Kaushiki Mazumdar, Ph.D., to Michael Bloom, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–0132. The meeting is closed to the public.

Dated: March 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05786 Filed 3–21–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Mentored Clinical Scientist Research Career Development Award (Parent K08 Independent Clinical Trial Not Allowed) and Ruth L. Kirschstein National Research Service Award (NRSA) Institutional Research Training Grant (Parent T32).

Date: April 13, 2023.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Vanitha S. Raman, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20852, 301–761–7949, *vanitha.raman@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05788 Filed 3–21–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

This is a hybrid meeting held in-person and virtually and is open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from *https://www.genome.gov/about-nhgri/Institute-Advisors/National-Advisory-Council-for-Human-Genome-Research.*

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 intramural programs

and projects as well as the grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Human Genome Research.

Date: May 15–16, 2023.

Closed: May 15, 2023, 9:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892.

Open: May 15, 2023, 10:30 a.m. to 5:00 p.m.

Agenda: Report of Institute Director and Institute Staff.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Rockledge, MD 20892.

Closed: May 16, 2023, 9:00 a.m. to 3:00 p.m.

Agenda: Presentation of NHGRI BSC Report.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892.

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 6700B Rockledge Drive, Suite 1100, Rockledge, MD 20892, (301) 402–0838, *pozzattr@mail.nih.gov.*

Any interested person may file written comments with the committee within 15 days after the meeting by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.genome.gov/council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 16, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05817 Filed 3–21–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel; R13 Review.

Date: April 11–12, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Li Jia, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, 6001 Executive Boulevard, Room 3208D, Rockville, MD 20852, 301–451–2854, *li.jia@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: March 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05787 Filed 3–21–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Study Section Acquired Immunodeficiency Syndrome Research Study Section (AIDS).

Date: April 13, 2023.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G21, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G21, Bethesda, MD 20852, (240) 669–5035, *robert.unfer@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05785 Filed 3–21–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; National Institutes of 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: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: April 10, 2023.

Time: 11:00 a.m. to 1:00 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: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: March 16, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–05818 Filed 3–21–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0006; OMB No. 1660–0004]

Agency Information Collection Activities: Proposed Collection; Comment Request; Application for Participation in the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60 Day notice of renewal and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension, without change, a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information under which communities submit information to FEMA for application and continued participation in the National Flood Insurance Program (NFIP).

DATES: Comments must be submitted on or before May 22, 2023.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2023–0006. Follow the instructions for submitting comments.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Adrienne L. Sheldon, Supervisory Emergency Management Specialist, Floodplain Management Division at *adriennel.sheldon@fema.dhs.gov* or (202) 212–3966. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), codified at 42 U.S.C. 4001, *et seq.,* requires all flood prone communities throughout the country to apply for participation in the NFIP one year after their flood prone status is identified or submit to the prohibition of certain types of federal and federally-related financial assistance for use in their floodplains. 44 CFR 59.2 authorizes previously unavailable flood insurance protection to property owners in flood-prone areas and identifies the information that communities are required to submit to FEMA for application into the NFIP. 44 CFR 59.22 and 59.24 identifies the information a community is required to submit to FEMA for continued participation in the program.

This collection has been updated to account for the burden hours associated with the applicant's time to collect information as part of the community development permit process. To qualify for the NFIP, a participating community must adopt certain minimum standards in accordance with FEMA's regulations at 44 CFR 60.3, 60.4, and 60.5. To verify whether communities maintain such standards, the NFIP requires participating communities to retain documentation on development taking place in the flood hazard areas within the community. See 44 CFR 59.22. Such information will be made available to FEMA upon request. This information assists FEMA in evaluating the effectiveness of a community's floodplain management program and participating property owners' eligibility for flood insurance. In the past the NFIP application did not account for burden hours associated with this collection of information.

The ''Application for Participation in the NFIP'' and the ''NFIP and the Community Development Permit Process'' are separate actions documented under the same collection

Collection of Information

Title: Application for Participation in the National Flood Insurance Program (NFIP).

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0004.

FEMA Forms: FEMA Form FF–206–FY–22–160 (formerly 086–0–30), Application for Participation in the National Flood Insurance Program.

Abstract: The National Flood Insurance Program (NFIP) provides flood insurance to the communities that apply for participation and make a

commitment to protect against future flood damages. The application form and supporting documentation will enable FEMA to continue to rapidly process new community applications and to thereby more quickly provide flood insurance protection to the residents in communities.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 22,660.

Number of Responses: 90,460.

Estimated Total Annual Burden Hours: 271,440.

Estimated Total Annual Respondent Cost: $24,215,162.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $110,446.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2023–05835 Filed 3–21–23; 8:45 am]

BILLING CODE 9111–47–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2341A2100DD/AAKC001030/ A0A501010.999900]

Indian Child Welfare Act; Designated Tribal Agents for Service of Notice

AGENCY: Bureau of Indians Affairs, Interior.

ACTION: Notice.

SUMMARY: The regulations implementing the Indian Child Welfare Act provide that Federally recognized Indian Tribes may designate an agent other than the Tribal chairman for service of notice of proceedings under the Act. This notice includes the current list of designated Tribal agents for service of notice.

DATES: The notice is effective March 22, 2023 and supersedes the list published on April 15, 2022.

FOR FURTHER INFORMATION CONTACT: Bureau of Indian Affairs, Evangeline M. Campbell, Chief, Division of Human Services, Office of Indian Services, 1849 C Street NW, Mail Stop 3641–MIB, Washington, DC 20240; *evangeline.campbell@bia.gov;* (202) 513–7621.

SUPPLEMENTARY INFORMATION: The regulations implementing the Indian Child Welfare Act, 25 U.S.C. 1901 *et seq.,* provide that Federally recognized Indian Tribes may designate an agent other than the Tribal chairman for service of notice of proceedings under the Act. *See* 25 CFR 23.12. The Secretary of the Interior is required to update and publish in the **Federal Register** as necessary the names and addresses of the designated Tribal agents. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs by 209 DM 8. This notice supersedes the list published in the **Federal Register** on April 15, 2022 (87 FR 22552).

BIA Regional Offices

In any involuntary proceeding in a State court where the court knows or has reason to know that an Indian child is involved, and where the identity and location of the child's parent or Indian custodian or Tribe is known, the party seeking the foster-care placement of, or termination of parental rights to, an Indian child must directly notify the parents, the Indian custodians, and the child's Tribe by registered or certified mail with return receipt requested, of the pending child-custody proceedings and their right of intervention. Copies of these notices must be sent to the appropriate Bureau of Indian Affairs (BIA) Regional Director by registered or certified mail with return receipt requested or by personal delivery. *See* 25 CFR 23.11. Notice may also be sent via personal service or electronically, but such alternative methods do not replace the requirement for notice to be sent by registered or certified mail with return receipt requested.

If the identity or location of the child's parents, the child's Indian custodian, or the Tribe(s) in which the Indian child is a member or eligible for membership cannot be ascertained, but there is reason to know the child is an Indian child, notice of the child-custody proceeding must be sent to the appropriate BIA Regional Director, available at *https://www.bia.gov/regional-offices. See* 25 CFR 23.111.

1. Alaska Region
2. Eastern Region
3. Eastern Oklahoma Region
4. Great Plains Region
5. Midwest Region
6. Navajo Region
7. Northwest Region
8. Pacific Region
9. Rocky Mountain Region
10. Southern Plains Region
11. Southwest Region
12. Western Region

BIA Central Office

No notices, except for final adoption decrees, are required to be sent to the BIA Central Office, MS–4606, 1849 C Street NW, Washington, DC 20240.

List of Designated Tribal Agents by BIA Region

This notice presents the names and addresses of current designated Tribal agents for service of notice and includes each designated Tribal agent received by the Secretary of the Interior prior to the date of this publication. The lists designated Tribal agents by BIA Region and alphabetically by Tribe within each BIA Region.

In addition to the BIA's annual **Federal Register** publication, the ICWA Designated Agent List will also be available on the Indian Affairs.gov website at *https://www.bia.gov/bia/ois/dhs/icwa* and will be updated every three months.

1. Alaska Region

Alaska Regional Director, Bureau of Indian Affairs, Human Services, 3601 C Street, Ste. 1200 MC–403 Anchorage, Alaska 99503; Phone Number: (907) 271–4111; Fax Number: (907) 271–4090.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Agdaagux Tribe of King Cove	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 East International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Akiachak Native Community	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Akiak Native Community	Olinka Jones, ICWA Director	P.O. Box 52127, Akiak, AK 99552.	(907) 765–7112	(907) 765–7512	*ojones@akiakira-nsn.gov.*
Alatna Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Algaaciq Native Village (St. Mary's).	Marlene Waska, ICWA Coordinator.	P.O. Box 48, St. Mary's, AK 99658.	(907) 438–2932	(907) 438–2227	*algaaciqtribe@gmail.com.*
Allakaket Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Alutiiq Tribe of Old Harbor	Julie Kaiser or Amanda Holden, ICWA Case Manager/ICWA Specialist.	Kodiak Area Native Association, 3449 E Rezanof Drive, Kodiak, AK 99615.	(907) 486–1395	(907) 486–1329	*Julie.Kaiser@kodiakhealthcare.org.*
Angoon Community Association	Will Kronick, Family Services Administrator.	P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Anvik Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Arctic Village	Tiffany Yatlin, ICWA Worker	P.O. Box 22069, Arctic Village, AK 99722.	(907) 587–5523	(907) 587–5128	*wellnesstribalcourt22@gmail.com.*
Asa'carsarmiut Tribe	Evelyn Darlene Peterson and Madeline Long, Social Service Directors.	P.O. Box 32107, Mountain Village, AK 99632.	(907) 591–2428	(907) 591–2934	*atcicwa@asacarsarmiut.org.*
Beaver Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Birch Creek Tribe	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Central Council of the Tlingit & Haida Indian Tribes.	Will Kronick, Family Services Administrator.	P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Chalkyitsik Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Cheesh-Na Tribe	Franchesca Cummins, ICWA Worker.	HC01 Box 217, Gakona, AK 99586.	(907) 822–3503	(907) 822–5179	*fcummins@cheeshna.com.*
Chevak Native Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Chickaloon Native Village	Vera Spence, ICWA Case Manager.	P.O. Box 1105, Chickaloon, AK 99674.	(907) 745–0794	(907) 745–0750	*vmspence@chickaloon-nsn.gov.*
Chignik Bay Tribal Council	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Chignik Lake Village	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Chilkat Indian Village (Klukwan)	Carrie-Ann Durr, ICWA Case Worker.	HC 60 Box 2207, Haines, AK 99827.	(907) 767–5505	(907) 767–5408	*cdurr@chilkat-nsn.gov.*
Chilkoot Indian Association (Haines).	Will Kronick, Family Services Administrator.	Central Council of the Tlingit and Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Chinik Eskimo Community (Golovin).	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Chuloonawick Native Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolesbee@avcp.org.*
Circle Native Community	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Craig Tribal Association	Will Kronick, Family Services Administrator.	Central Council of the Tlingit and Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Curyung Tribal Council	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Douglas Indian Association	Alyssa Cadiente-Laiti-Blattner, ICWA Social Services Program Coordinator.	811 W 12th Street, Juneau, AK 99801.	(907) 364–2916	(907) 364–2917	*ablattner@diataku.com.*
Egegik Village	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Eklutna Native Village	Dawn Harris, ICWA Worker	P.O. Box 670666, Chugiak, AK 99567.	(907) 688–6020	(907) 688–6021	*dharris@eklutna.org.*
Emmonak Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Evansville Village (aka Bettles Field).	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Galena Village (aka Louden Village).	Huda Swelam, Tribal Administrator.	P.O. Box 244, Galena, AK 99741.	(907) 656–1711	(907) 656–2491	*huda.swelam@loudentribe.com.*
Gulkana Village Council	Rachel Stratton Morse, ICWA Worker.	P.O. Box 254, Gakona, AK 99586.	(907) 822–5363	(907) 822–3976	*icwa@gulkanacouncil.org.*
Healy Lake Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Holy Cross Tribe	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Hoonah Indian Association	Akasha Moulton, Human Development Division Director.	P.O. Box 602, Hoonah, AK 99829.	(907) 802–3195	(907) 945–3140	*Akasha.Moulton@hiatribe.org.*
Hughes Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Huslia Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Hydaburg Cooperative Association.	Will Kronick, Family Services Administrator.	Central Council of the Tligit & Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Igiugig Village	Alicia Tinney, ICWA Worker	P.O. Box 4008, Igiugig, AK 99613.	(907) 533–3211	(907) 533–3217	*alicia.s.zackar@gmail.com.*
Inupiat Community of the Arctic Slope.	Marie H. Ahsoak, Social Services Director.	P.O. Box 934, Barrow, AK 99723.	(907) 852–5923	(907) 852–5924	*marie.ahsoak@icas-nsn.gov.*
Iqugmiut Traditional Council	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolesbee@avcp.org.*
Ivanof Bay Tribe	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Kaguyak Village	Alyssa Brenteson, Tribal Manager.	P.O. Box 5078, Akhiok, AK 99615.	(907) 836–2231		*kaguyak.tribal.council@gmail.com.*
Kaktovik Village (aka Barter Island).	Augustine Kignak, ICWA Program Manager.	Arctic Slope Native Association, P.O. Box 1232, Utqiagvik, AK 99723.	(907) 852–9374	(907) 852–2761	*Augustine.kignak@arcticslope.org.*
Kasigluk Traditional Elders Council.	Lena Keene, ICWA Worker	P.O. Box 19, Kasigluk, AK 99609.	(907) 477–6418	(907) 477–6212	*kasigluktribalicwa@gmail.com.*
Kenaitze Indian Tribe	Josie Oliva, ICWA Tribal Representative.	P.O. Box 988, Kenai, AK 99611	(907) 335–7611	(907) 202–8359	*JOliva@kenaitze.org.*
Ketchikan Indian Community	Douglas J. Gass, Case Management Supervisor.	201 Deermount Street, Ketchikan, AK 99901.	(907) 228–9327	(800) 378–0469	*dgass@kictribe.org.*
King Island Native Community	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
King Salmon Tribe	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Klawock Cooperative Association.	Will Kronick, Family Services Administrator.	Central Council of the Tlingit and Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7168	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Knik Tribe	Geraldine Nicoli-Ayonayon, ICWA Manager.	P.O. Box 871565, Wasilla, AK 99687.	(907) 373–7938	(907) 373–2153	*gnayonayon@kniktribe.org.*
Kokhanok Village	Mary Andrew, ICWA Worker	P.O. Box 1007, Kokhanok, AK 99606.	(907) 282–2224	(907) 282–2264	*icwa@kokhanok.com.*
Koyukuk Native Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Levelock Village	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Lime Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Manley Hot Springs Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Manokotak Village	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
McGrath Native Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Mentasta Traditional Council	Anita Andrews, Tribal Administrator.	P.O. Box 6019, Mentasta Lake, AK 99780.	(907) 291–2319	(907) 291–2305	*907mlv99780ta@gmail.com.*
Naknek Native Village	Lydia Olympic, Tribal Administrator.	P.O. Box 522, Naknek, AK 99633.	(907) 246–4210	(907) 865–7953	*nnvc.omgr@gmail.com.*
Native Village of Afognak	Denise Malutin, ICWA Program Manager.	115 Mill Bay Road, Kodiak, AK 99615.	(907) 486–6357	(907) 486–6529	*denise@afognak.org.*
Native Village of Akhiok	Julie Kaiser or Amanda Holden, ICWA Case Manager/ICWA Specialist.	Kodiak Area Native Association, 3449 E Rezanof Drive, Kodiak, AK 99615.	(907) 486–1395	(907) 486–1329	*Julie.kaiser@kodiakhealthcare.org.*
Native Village of Akutan	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Aleknagik	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Ambler	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Native Village of Atka	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Atqasuk	Augustine Kignak, ICWA Program Manager.	Arctic Slope Native Association, P.O. Box 1232, Utqiagvik, AK 99723.	(907) 852–9374	(907) 852–2761	*Augustine.kignak@arcticslope.org.*
Native Village of Barrow Inupiat Traditional Government.	Daira Pico, Social Services Director.	P.O. Box 1130, Utqiagvik, AK 99723.	(907) 852–4411	(907) 852–4413	*Daira.Pico@nvb-nsn.gov.*
Native Village of Belkofski	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Brevig Mission	Heather Payenna, Children & Family Services Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Buckland	Kiarah Melton, ICWA Coordinator.	P.O. Box 67, Buckland, AK 99727.	(907) 494–2169	(907) 494–2192	*icwa@nunachiak.org.*
Native Village of Cantwell	Nelly Ewan, ICWA Advocate	Copper River Native Association, P.O. Box H, Copper Center, AK 99573.	(907) 822–5241	(888) 959–2389	*newan@crnative.org.*
Native Village of Chenega (aka Chanega).	Megan Green, ICWA Program	3000 C Street, Ste. 200, Anchorage, AK 99503.	(907) 569–5671	(907) 569–6939	*megan.green@chenegaira.com.*
Native Village of Chignik Lagoon.	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Chitina	Tribal Administrator	P.O. Box 31, Chitina, AK 99566	(907) 823–2215	(907) 823–2285	
Native Village of Chuathbaluk (Russian Mission, Kuskokwim).	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Council	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Deering	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Native Village of Diomede (aka Inalik).	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Eagle	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Eek	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Ekuk	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Ekwok	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Elim	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Eyak (Cordova).	Bree Mills, Tribal Family Services Director.	P.O. Box 1388, Cordova, AK 99574.	(907) 424–2228	(907) 424–7809	*bree.mills@eyak-nsn.gov.*
Native Village of False Pass	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Fort Yukon	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Native Village of Gakona	Lisa Nicolai, ICWA Worker	P.O. Box 102, Gakona, AK 99586.	(907) 822–5777	(907) 822–5997	*gakonaprojects@gmail.com.*
Native Village of Gambell	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Georgetown	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolesbee@avcp.org.*
Native Village of Goodnews Bay	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Hamilton	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Hooper Bay	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Kanatak	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Karluk	Kristeen Reft, ICWA Worker	P.O. Box 22, Karluk, AK 99608	(907) 241–2238		*programassistant@karluktribal.org.*
Native Village of Kiana	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Native Village of Kipnuk	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Kivalina	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*tribeadmin@kivaliniq.org.*
Native Village of Kluti Kaah (aka Copper Center).	Sarah White, ICWA Coordinator	P.O. Box 68, Copper Center, AK 99573.	(907) 822–5241	(907) 822–5130	*nvkkicwa@outlook.com.*
Native Village of Kobuk	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Native Village of Kongiganak	Minnie Nicholas, ICWA Worker	P.O. Box 5069, Kongiganak, AK 99545.	(907) 557–5311	(907) 557–5224	*Kong.icwa@gmail.com.*
Native Village of Kotzebue	Bibianna Scott, Tribal Family Services Director.	P.O. Box 296, Kotzebue, AK 99752.	(907) 442–3467	(907) 442–4013	*bibianna.scott@qira.org.*
Native Village of Koyuk	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Kwigillingok	Andrew Beaver, ICWA Program Director.	P.O. Box 90, Kwigillingok, AK 99622.	(907) 588–8117	(907) 588–8429	*icwa@kwigtribe.org.*
Native Village of Kwinhagak (aka Quinhagak).	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Larsen Bay	Julie Kaiser or Amanda Holden, ICWA Case Manager/ICWA Specialist.	Kodiak Area Native Association, 3449 E Rezanof Drive, Kodiak, AK 99615.	(907) 486–1395	(907) 486–1329	*Julie.kaiser@kodiakhealthcare.org.*
Native Village of Marshall (aka Fortuna Ledge).	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Mary's Igloo	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Mekoryuk	Melanie Shavings, ICWA Coordinator.	P.O. Box 66, Mekoryuk, AK 99630.	(907) 827–8827	(907) 827–8133	*melanie.s@mekoryuktc.org.*
Native Village of Minto	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Nanwalek (aka English Bay).	Priscilla Evans, ICWA Coordinator.	P.O. Box 8028, Nanwalek, AK 99603.	(907) 281–2284		
Native Village of Napaimute	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Napakiak	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Napaskiak	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Nelson Lagoon	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Nightmute	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Native Village of Nikolski	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Noatak	Benjamin P. Arnold, ICWA Coordinator.	P.O. Box 89, Noatak, AK 99761	(907) 485–2030	(907) 485–2500	*icwa@nautaaq.org.*
Native Village of Nuiqsut (aka Nooiksut).	Augustine Kignak, ICWA Program Manager.	Arctic Slope Native Association, P.O. Box 1232, Utqiagvik, AK 99723.	(907) 852–9374	(907) 852–2761	*Augustine.kignak@arcticslope.org.*
Native Village of Nunam Iqua	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Nunapitchuk	Aldine Frederick, ICWA Worker	P.O. Box 104, Nunapitchuk, AK 99641.	(907) 527–5731	(907) 527–5740	*nunap.icwa@gmail.com.*
Native Village of Ouzinkie	Julie Kaiser or Amanda Holden, ICWA Case Manager/ICWA Specialist.	Kodiak Area Native Association, 3449 E Rezanof Drive, Kodiak, AK 99615.	(907) 486–1395	(907) 486–1329	*Julie.Kaiser@kodiakhealthcare.org.*
Native Village of Paimiut	Colleen Timmer, Tribal Administrator.	P.O. Box 240084, Anchorage, AK 99524.	(907) 561–0304	(907) 561–0305	*colleent@nvptc.org.*
Native Village of Perryville	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Pilot Point	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Native Village of Point Hope	Mabel Oktollik, Family/ICWA Case Worker.	P.O. Box 109, Point Hope, AK 99766.	(907) 368–3122	(907) 368–2332	*family.caseworker@tikigaq.com.*
Native Village of Point Lay	Marie H. Ahsoak, Social Services Director.	Inupiat Community of the Arctic Slope, P.O. Box 934, Barrow, AK 99723.	(907) 852–5923	(907) 852–5924	*marie.ahsoak@icas-nsn.gov.*
Native Village of Port Graham	Patrick Norman, Chief & ICWA Worker.	P.O. Box 5510, Port Graham, AK 99603.	(907) 284–3023	(907) 284–2222	*pat@portgraham.org.*
Native Village of Port Heiden	Amber Christensen-Fox, ICWA Worker.	2200 James Street, Port Heiden, AK 99549.	(907) 837–2296	(907) 837–2297	*amber@portheidenalaska.com.*
Native Village of Port Lions	Willie Nelson, Family Services Coordinator.	P.O. Box 69, Port Lions, AK 99550.	(907) 454–2234	(907) 454–2434	*familyservices@portlionstribe.org.*
Native Village of Ruby	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Saint Michael	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Savoonga	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Scammon Bay	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Selawik	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*tribeadmin@akuligaq.org.*
Native Village of Shaktoolik	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Shishmaref	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Shungnak	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Native Village of Stevens	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Tanacross	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Tanana	Donna May Folger, ICWA Manager.	P.O. Box 130, Tanana, AK 99777.	(907) 336–1025	(907) 366–7246	*Tanana.TFYS@gmail.com.*
Native Village of Tatitlek	Ms. Rami Paulsen, Tribal Administrator.	P.O. Box 171, Tatitlek, AK 99677.	(907) 325–2311	(907) 325–2289	*rpaulsen@tatitlek.com.*
Native Village of Tazlina	Donna Renard, ICWA Coordinator.	P.O. Box 466, Glennallen, AK 99588.	(907) 822–1082	(907) 822–5865	*icwa.tazlinatribe@gmail.com.*
Native Village of Teller	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of Tetlin	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Tuntutuliak	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Native Village of Tununak	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Native Village of Tyonek	Johann Bartels, President	P.O. Box 82009, Tyonek, AK 99682.	(907) 583–2111	(907) 583–2219	*nvtyonekpresident@gmail.com.*
Native Village of Unalakleet	Christy Schuneman, ICWA Caseworker.	P.O. Box 357, Unalakleet, AK 99684.	(907) 624–3622	(907) 624–5104	*tfc.unk@unkira.org.*
Native Village of Unga	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie).	Michelle Peter, ICWA Advoate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Native Village of Wales	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Native Village of White Mountain.	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Nenana Native Association	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
New Koliganek Village Council	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
New Stuyahok Village	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Newhalen Village	Maxine Wassillie, ICWA Worker	P.O. Box 207, Newhalen, AK 99606.	(907) 571–1410	(907) 571–1537	*maxinewassillie@newhalentribal.com.*
Newtok Village	Andrew John, Tribal Administrator.	P.O. Box 5596, Newtok, AK 99559.	(907) 237–2202	(907) 237–2210	*wwt10nnc@gmail.com.*
Nikolai Village	Michelle Peter, IWCA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Ninilchik Village	Elise Weber, ICWA Specialist	P.O. Box 39444, Ninilchik, AK 99639.	(907) 206–2740	(907) 567–3354	*eweber@ninilchiktribe-nsn.gov.*
Nome Eskimo Community	Lola Tobuk, Director of Family Services.	101 W Benson Blvd., Ste. 203, Anchorage, AK 99503.	(907) 339–1540	(907) 222–2996	*lola.tobuk@necalaska.org.*
Nondalton Village	Fawn Silas, Tribal Administrator	P.O. Box 49, Nondalton, AK 99640.	(907) 294–2257	(907) 294–2271	*ntcssicwa@gmail.com.*
Noorvik Native Community	Jackie Hill, Director	Maniilaq Association Family Services, P.O. Box 256, Kotzebue, AK 99752.	(907) 442–7879	(907) 442–7885	*jackie.hill@maniilaq.org.*
Northway Village	Tasha Demit, ICWA Worker	P.O. Box 516, Northway, AK 99764.	(907) 778–2311	(907) 778–2220	*icwa@aptalaska.net.*
Nulato Village	Sharon Agnes, Director of Human Services.	P.O. Box 65090, Nulato, AK 99765.	(907) 898–2236	(907) 898–2238	*Sharon.tfys@outlook.com.*
Nunakauyarmiut Tribe	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Organized Village of Grayling (aka Holikachuk).	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Organized Village of Kake	Nathalie Austin, Social Services Director.	P.O. Box 316, Kake, AK 99830	(907) 785–6471	(907) 785–4902	*icwa@kake-nsn.gov.*
Organized Village of Kasaan	Will Kronick, Family Services Administrator.	Central Council of the Tlingit and Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Organized Village of Kwethluk	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolesbee@avcp.org.*
Organized Village of Saxman	Will Kronick, Family Services Administrator.	Central Council of the Tlingit and Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Orutsararmiut Traditional Native Council.	Gertrude Peter, Social Services Director.	P.O. Box 927, Bethel, AK 99559.	(907) 543–2608	(907) 543–2639	*gpeter@nativecouncil.org.*
Oscarville Traditional Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Pauloff Harbor Village	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Pedro Bay Village	Verna Kolyaha, Program Services.	P.O. Box 47020, Pedro Bay, AK 99647.	(907) 850–2341	(907) 850–2232	*vjkolyaha@pedrobay.com.*
Petersburg Indian Association	Kara Wesebaum, Indian Child Welfare Representative.	P.O. Box 1418, Petersburg, AK 99833.	(907) 772–3636	(907) 772–3686	*icwa@piatribal.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Pilot Station Traditional Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Pitka's Point Traditional Council	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Platinum Traditional Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–7461	(907) 543–7644	*icwa2@avcp.org.*
Portage Creek Village (aka Ohgsenakale).	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Qagan Tayagungin Tribe of Sand Point.	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Qawalangin Tribe of Unalaska	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Rampart Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Saint George Island	Amanda McAdoo, Family Services Coordinator.	Aleutian Pribilof Islands Association Inc., 1131 E International Airport Road, Anchorage, AK 99518.	(907) 276–2700	(907) 222–9735	*amandam@apiai.org.*
Saint Paul Island	Sheridan DesGranges, Director	P.O. Box 86, St. Paul Island, AK 99660.	(907) 546–8301	(907) 931–2648	*sldesgranges@aleut.com.*
Salamatof Tribe	Maria Guerra, Family and Social Services Director.	Kenaitze Indian Tribe, P.O. Box 988, Kenai, AK 99611.	(907) 335–7611	(907) 202–8359	*MGuerra@kenaitze.org.*
Seldovia Village Tribe	Crystal Collier, Acting ICWA Worker.	P.O. Drawer L, Seldovia, AK 99663.	(907) 435–3265	(907) 234–7865	*ccollier@svt.org.*
Shageluk Native Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Sitka Tribe of Alaska	Melonie Boord, Social Services Director.	204 Siginaka Way, Sitka, AK 99835.	(907) 747–7221	(907) 747–4915	*staicwa@sitkatribe-nsn.gov.*
Skagway Village	Kathryn Klug, ICWA Worker	P.O. Box 1157, Skagway, AK 99840.	(907) 983–4068	(907) 983–3068	*Kathryn@skagwaytraditional.org.*
South Naknek Village	Anishia Elbie, Interim ICWA Coordinator.	P.O. Box 70029, South Naknek, AK 99670.	(907) 440–4100		*aelbie.snvc@gmail.com.*
Stebbins Community Association.	Heather Payenna, CFS Manager.	Kawerak Inc. Children & Family Services, P.O. Box 948, Nome, AK 99762.	(907) 443–4261	(907) 443–4601	*hpayenna@kawerak.org.*
Sun'aq Tribe of Kodiak	Linda Resoff, Social Services Director.	312 West Marine Way, Kodiak, AK 99615.	(907) 486–0260	(907) 486–0264	*socialservices@sunaq.org.*
Takotna Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Tangirnaq Native Village	Shelly Peterson, Tribal Administrator.	3449 Rezanof Drive East, Kodiak, AK 99615.	(907) 486–9872	(907) 486–4829	*info@woodyisland.com.*
Telida Village	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Traditional Village of Togiak	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Tuluksak Native Community	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Twin Hills Village	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 842–4139	(907) 842–4106	*BBICWA@bbna.com.*
Ugashik Village	Steven Alvarez, Tribal Administrator.	2525 Blueberry Road, Ste. 205, Anchorage, AK 99503.	(907) 338–7611	(907) 338–7659	*manager@ugashikvillage.com.*
Umkumiut Native Village	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Alakanuk	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Anaktuvuk Pass	Augustine Kignak, ICWA Program Manager.	Arctic Slope Native Association, P.O. Box 1232, Utqiagvik, AK 99723.	(907) 852–9374	(907) 852–2761	*Augustine.kignak@arcticslope.org.*
Village of Aniak	Mary L. Kvamme, ICWA Coordinator.	P.O. Box 232, Aniak, AK 99557	(907) 675–4733	(907) 675–4513	*mkvamme61@gmail.com.*
Village of Atmautluak	Serena Solesbee, ICWA Program Manager.	P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Bill Moore's Slough	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Village of Chefornak	Edward Kinegak, ICWA Specialist.	P.O. Box 110, Chefornak, AK 99561.	(907) 867–8808	(907) 867–8711	*suckaq@gmail.com.*
Village of Clarks Point	Children's Services Division Manager.	Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576.	(907) 542–4139	(907) 842–4106	*BBICWA@bbna.com.*
Village of Crooked Creek	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Dot Lake	Chance Shank, ICWA	P.O. Box 70488, Fairbanks, AK 99707.	(907) 712–4315		*chanceshank@gmail.com.*
Village of Iliamna	Louise Anelon, Administrator/ICWA Worker.	P.O. Box 286, Iliamna, AK 99606.	(907) 571–1246	(907) 571–3539	*louise.anelon@iliamnavc.org.*
Village of Kalskag	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Kaltag	Michelle Peter, ICWA Advocate	Tanana Chiefs Conference, 122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Village of Kotlik	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolesbee@avcp.org.*
Village of Lower Kalskag	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Ohogamiut	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Red Devil	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolebee@avcp.org.*
Village of Sleetmute	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Solomon	Elizabeth Johnson	P.O. Box 2053, Nome, AK 99762.	(907) 443–4985	(907) 443–5189	*tc.sol@kawerak.org.*
Village of Stony River	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*icwa2@avcp.org.*
Village of Venetie (See Native Village of Venetie Tribal Government).	Michelle Peter, ICWA Advocate	122 First Avenue, Ste. 600, Fairbanks, AK 99701.	(907) 452–8251	(907) 459–3984	*michelle.peter@tananachiefs.org.*
Village of Wainwright	Augustine Kignak, ICWA Program Manager.	Arctic Slope Native Association, P.O. Box 1232, Utqiagvik, AK 99723.	(907) 852–9374	(907) 852–2761	*Augustine.kignak@arcticslope.org.*
Wrangell Cooperative Association.	Will Kronick, Family Services Administrator.	Central Council of the Tlingit and Haida Indian Tribes, P.O. Box 25500, Juneau, AK 99802.	(907) 463–7169	(907) 885–0032	*icwamail@ccthita-nsn.gov.*
Yakutat Tlingit Tribe	Penny James, Human Services Director.	P.O. Box 387, Yakutat, AK 99689.	(907) 784–3268	(907) 784–3595	*pjames@ytttribe.org.*
Yupiit of Andreafski	Serena Solesbee, ICWA Program Manager.	Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559.	(907) 543–8691	(907) 543–7644	*SSolesbee@avcp.org.*

2. Eastern Region

Eastern Regional Director, 545 Marriot Drive, Ste. 700, Nashville, TN 37214; Phone Number: (615) 546–6500; Fax Number: (615) 564–6701.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Catawba Indian Nation (aka Catawba Indian Tribe of South Carolina).	Shelby Lewis, ICWA Coordinator/Child Services.	Catawba Indian Nation, 996 Avenue of Nations, Rock Hill, SC 29730.	(803) 992–6293	(803) 325–1242	*shelby.lewis@catawba.com.*
Cayuga Nation	Sharon Leroy, Executor	P.O. Box 803, Seneca Falls, NY 13148.	(315) 568–0750	(315) 568–0752	*sharon.leroy@cayuganation-nsn.gov.*
Chickahominy Indian Tribe	Martha N. Adkins, ICWA Coordinator.	8200 Lott Cary Road, Providence Forge, VA 23140.	(804) 829–2027		*martha.adkins@chickahominytribe.org.*
Chickahominy Indian Tribe—Eastern Division.	Doris Ann Austin, ICWA Coordinator.	2895 Mt. Pleasant Road, Providence Forge, VA 23140.	(804) 966–7815	(804) 506–3017	*doris.austin@cit-ed.org.*
Chitimacha Tribe of Louisiana	Karen Matthews, Human Services Director.	P.O. Box 520, Charenton, LA 70523.	(337) 923–7000	(337) 923–2475	*karen@chitimacha.gov.*
Coushatta Tribe of Louisiana	Rayne Langley, ICWA Coordinator.	1984 CC Bel Road, Elton, LA 70532.	(337) 584–1437		*rlangley@coushatta.org.*
Eastern Band of Cherokee Indians.	Jenny Bean, Family Safety Supervisor.	P.O. Box 666, Cherokee, NC 28719.	(828) 359–6149	(828) 359–0216	*jennbean@ebci-nsn.gov.*
Houlton Band of Maliseet Indians.	Lori Jewell, ICWA Director	88 Bell Road, Littleton, ME 04730.	(207) 532–3800	(207) 532–7287	*ljewell@maliseets.com.*
Jena Band of Choctaw Indians	Malori Strange, ICWA Specialist.	P.O. Box 14, Jena, LA 71342	(318) 992–1169	(318) 992–4162	*mmaxwell@jenachoctaw.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Mashantucket Pequot Indian Tribe.	Valerie Burgess, Director Child Protective Services.	102 Muhshee Mahchaq, P.O. Box 3313, Mashantucket, CT 06338.	(860) 396–2007	(860) 396–2144	*vburgess@mptn-nsn.gov.*
Mashpee Wampanoag Tribe	Maria Turner, ICWA Manager	483 Great Neck Road–South, Mashpee, MA 02649.	(508) 477–0208	(774) 361–6034	*maria.turner@mwtribe-nsn.gov.*
Miccosukee Tribe of Indians	Martha Vega, Director of Social Services.	P.O. Box 440021, Tamiami Station, Miami, FL 33144.	(305) 223–8380	(305) 894–5232	*marthav@miccosukeetribe.com.*
Mi'kmaq Nation	Norma Saulis, ICWA Director	7 Northern Road, Presque Isle, ME 04769.	(207) 764–1972	(207) 764–7667	*nsaulis@micmac-nsn.gov.*
Mississippi Band of Choctaw Indians.	Natasha L. Welsey, ICWA Coordinator.	P.O. Box 6258, Choctaw, MS 39350.	(601) 656–4507	(601) 656–1357	*icwa@choctaw.org.*
Mohegan Tribe of Indians of Connecticut.	Teri McHale, Ph.D, Director of Behavioral Health Clinical Services.	13 Crow Hill Road, Uncasville, CT 06382.	(860) 862–6236	(860) 862–6324	*tmchale@moheganmail.com.*
Monacan Indian Nation	Matthew & Sally Latimer, ICWA Coordinators.	111 Highview Drive, Madison Heights, VA 24572.	(434) 363–4864		*s.latimer124@aol.com.*
Nansemond Indian Nation	Chief Keith F. Anderson	1001 Pembroke Lane, Suffolk, VA 23434.	(757) 619–0670		*chief@nansemond.org.*
Narragansett Indian Tribe	Anemone Mars, ICWA Program Manager.	4533 South County Trail, P.O. Box 268, Charlestown, RI 02813.	(401) 364–9500	(401) 364–1104	*n.tcfs.dept@outlook.com.*
Oneida Indian Nation	Kim Jacobs, Nation Clerk	Box 1, Vernon, NY 13476	(315) 829–8337	(315) 366–9231	*kjacobs@oneida-nation.org.*
Onondaga Nation	Onondaga Family Services	104 West Conklin Ave., Nedrow, NY 13120.	(315) 469–9196	(315) 469–3250	*ononfs@gmail.com.*
Pamunkey Indian Tribe	Allyson Gray, ICWA/Enrollment Coordinator.	1054 Pocahontas Trail, King William, VA 23086.	(804) 843–2372	(866) 422–3387	*allyson.gray@pamunkey.org.*
Passamaquoddy Tribe—Indian Township.	Carrie Cropley, Director of Child & Family Services.	P.O. Box 301, Princeton, ME 04668.	(207) 214–1361		*ccropley.itcw@gmail.com.*
Passamaquoddy Tribe—Pleasant Point.	Diane Libby, Director	P.O. Box 343, Perry, ME 04667	(207) 853–5139	(207) 853–9618	*dlibby2021@gmail.com.*
Penobscot Nation	Michael Augustine, Director of Social Services.	2 Down Street, Indian Island, ME 04468.	(207) 817–3165	(207) 817–3166	*Michael.Augustine@penobscotnation.org.*
Poarch Band of Creek Indians	Synethia K. Thomas, ICWA Director.	5811 Jack Springs Road, Atmore, AL 36502.	(251) 368–9136		*sthomas@pci-nsn.gov.*
Rappahannock Tribe, Inc.	G. Anne Richardson, ICWA Coordinator.	5036 Indian Neck Road, Indian Neck, VA 23148.	(804) 769–0260		*info@rappahannocktribe.org.*
Saint Regis Mohawk Tribe	Sky Timmons, ICWA Program Manager.	71 Margaret Terrance Memorial Way, Akwesasne, NY 13655.	(518) 358–2360	518.358.9107	*sky.timmons@srmt-nsn.gov.*
Seminole Tribe of Florida	Shamika Beasley, Advocacy Assistant Director.	111 W. Coral Way, Hollywood, FL 33021.	(954) 965–1338	(954) 985–2339	*shamikabeasley@semtribe.com.*
Seneca Nation of Indians	Shaela Maybee, Director of Child & Family Services.	987 RC Hoag Drive, Salamanca, NY 14799.	(716) 532–8223	(716) 945–7881	*shmaybee@senecahealth.org.*
Shinnecock Indian Nation	Paula Collins, ICWA Coordinator.	P.O. Box 1268, South Hampton, NY 11969.	(631) 287–6476		*paulacollins@shinnecock.org.*
Tonawanda Band of Seneca	Chief Roger Hill	7027 Meadville Road, Basom, NY 14013.	(716) 542–4244	(716) 542–4008	*tonseneca@aol.com.*
Tunica-Biloxi Indian Tribe	Evelyn Cass, Social Service Department.	P.O. Box 493, Marksville, LA 71351.	(318) 240–6455	(318) 500–3011	*ecass@tunica.org.*
Tuscarora Nation	Chief Tom Jonathan	5226 Walmore Road, Lewiston, NY 14092.	(716) 264–6007		*tuscnationhouse@gmail.com.*
Upper Mattaponi Tribe	Wilma Hicks, Assistant Tribal Administrator.	13476 King Willliam Road, King William, VA 23086.	(804) 535–0557		*assistantadmin@umitribe.org.*
Wampanoag Tribe of Gay Head (Aquinnah).	Cheryl Andrews-Maltais, ICWA Coordinator.	20 Black Brook Road, Aquinnah, MA 02535.	(508) 645–9265	(508) 645–2755	*chairwoman@wampanoagtribe-nsn.gov.*

3. Eastern Oklahoma Region

Eastern Oklahoma Regional Director, P.O. Box 8002, Muskogee, OK 74402; Phone Number: (918) 781–4600; Fax Number (918) 781–4604.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Alabama-Quassarte Tribal Town	Vacant	P.O. Box 187, Wetumka, OK 74883.	(405) 452–3659	(405) 452–3435	
Cherokee Nation	Lou Stretch, Indian Child Welfare Director.	P.O. Box 948, Tahlequah, OK 74465.	(918) 458–6900	(918) 458–4216	*ICWAEligCherokeeNation@cherokee.org.*
Delaware Tribe of Indians	Shelby Lacey, Department of Family and Children Services.	5100 Tuxedo Blvd., Ste. C, Bartlesville, OK 74006.	(918) 337–6610	(918) 337–6518	*slacey@delawaretribe.org.*
Eastern Shawnee Tribe of Oklahoma.	Tamara Gibson, Child and Family Services Coordinator.	10100 S. Bluejacket Road, Suite 3, Wyandotte, OK 74370.	(918) 666–7710	(888) 971–3908	*tgibson@estoo.net.*
Kialegee Tribal Town	Jennie Lillard, ICW Coordinator	P.O. Box 332, Wetumka, OK 74883.	(405) 452–5388	(405) 452–3413	*Jennie.lillard@kialegeetribe.net.*
Miami Tribe of Oklahoma	Corinna Campbell-Green, ICW Coodinator.	P.O. Box 1326, Miami, OK 74355.	(918) 541–1381	(918) 542–6448	*Ccampbell-green@miamination.com.*
Modoc Nation	Amy Maze-Crowder, ICW Coordinator.	21 N. Eight Tribes Trail, Ste. B., Miami, OK 74354.	(918) 387–8720	(918) 542–7878	*amy.maze-crowder@modochealinghouse.com.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Ottawa Tribe of Oklahoma	Jonathan Jacobs, Director of Child Welfare.	P.O. Box 110, Miami, OK 74355.	(918) 540–1536	(918) 542–3214	*JDJacobs.OTO@gmail.com.*
Peoria Tribe of Indians of Oklahoma.	Tracy Coach, Indian Child Welfare Director.	P.O. Box 1527, Miami, OK 74355.	(918) 540–2535	(918) 540–2538	*tcoach@peoriatribe.com.*
Quapaw Nation	Shawna Geary, Family Services.	P.O. Box 765, Quapaw, OK 74363.	(918) 325–0699	(918) 674–2581	*shawna.geary@quapawtribe.com.*
Seneca-Cayuga Nation	Kim Phillips, ICW Director	P.O. Box 453220, Grove, OK 74345.	(918) 791–6054	(918) 787–5521	*kphillips@sctribe.com.*
Shawnee Tribe	Sean Graham, ICW Representative.	P.O. Box 189, Miami, OK 74355.	(918) 542–7232		*sean@shawnee-tribe.com.*
The Chickasaw Nation	Kim Johnson, Director	810 Colony Drive, Ada, OK 74820.	(580) 272–5550	(580) 272–5553	*ICWACPS@chickasaw.net.*
The Choctaw Nation of Oklahoma.	Amanda Robinson, ICWA Director.	1802 Chukka Hina Dr., P.O. Box 1210, Durant, OK 74702.	(580) 924–8280	(580) 642–8877	*cfsreferrals@choctawnation.com.*
The Muscogee (Creek) Nation	Ann Davis, Director of Child and Family Services.	P.O. Box 580, Okmulgee, OK 74447.	(918) 732–7859	(918) 732–7855	*edavis@muscogeenation.com.*
The Osage Nation	Jerod Applegate, Social Work Supervisor.	255 Senior Drive, Pawhuska, OK 74056.	(918) 287–5335	(918) 287–5231	*jerod.applegate@osagenation-nsn.gov.*
The Seminole Nation of Oklahoma.	Stephanie Haney Brown, Director.	P.O. Box 1498, Wewoka, OK 74884.	(405) 257–9038	(405) 257–9036	*haneybrown.s@sno-nsn.gov.*
Thlopthlocco Tribal Town	Yvonda Fixico, Social Service Director.	P.O. Box 188, Okemah, OK 74859.	(918) 560–6198	(918) 623–3023	*yfixico@tttown.org.*
United Keetoowah Band of Cherokee Indians in Oklahoma.	Rolanda Aimerson, ICW Director.	P.O. Box 746, Tahlequah, OK 74465.	(918) 871–2762	(918) 431–0152	*raimerson@ukb-nsn.gov.*
Wyandotte Nation	Tara Gragg, ICW Supervisor	8 Turtle Drive, Wyandotte, OK 74370.	(918) 678–2297	(918) 678–6355	*wnfs@wyandotte-nation.org.*

4. Great Plains Region

Great Plains Regional Director, 115 4th Avenue SE, Ste. 400, Aberdeen, SD 57401; Phone Number: (605) 226–7343; Fax Number: (605) 226–7446.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota.	Diane Garreau, ICWA Program Director.	100 Main Teton Mall, P.O. Box 590, Eagle Butte, SD 57625.	(605) 964–6460	(605) 964–6463	*Dgarreau61@hotmail.com.*
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota.	Christian Black Bird, CCST ICWA Director.	147 Red Horse Road, P.O. Box 247, Ft. Thompson, SD 57339.	(605) 245–2581	(605) 245–2401	*icwaccst@gmail.com.*
Flandreau Santee Sioux Tribe of South Dakota.	Jessica Morson, ICWA Administrator.	603 W Broad Ave., P.O. Box 283, Flandreau, SD 57028.	(605) 997–5055	(605) 997–3694	*jessica.morson@fsst.org.*
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota.	Jera Brouse-Koster, Designated Tribal Agent–ICWA.	187 Oyate Circle, Lower Brule, SD 57548.	(605) 473–5561	(605) 473–0119	*jerabrouse@lowerbrule.net.*
Oglala Sioux Tribe	Verlyn Garnier, ICWA Specialist	East Hwy. 18, IHS Compound, P.O. Box 604, Pine Ridge, SD 57770.	(605) 867–5752	(605) 867–5941	*verlyn@oglala.org.*
Omaha Tribe of Nebraska	Richard Hastings, ICWA Specialist.	P.O. Box 368, Macy, NE 68039	(402) 837–5331	(402) 837–5362	*rhastings@theomahatribe.com.*
Ponca Tribe of Nebraska	Lynn Schultz, ICWA Specialist	1800 Syracuse Avenue, Norfolk, NE 68701.	(402) 371–8834	(402) 371–7564	*lschultz@poncatribe-ne.org.*
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota.	Shirley J. Bad Wound, ICWA Specialist.	East Hwy. 18, P.O. Box 609, Mission, SD 57555.	(605) 856–5270	(605) 856–5268	*rsticwa9@gwtc.net.*
Santee Sioux Nation, Nebraska	Renae Wolf, ICWA Specialist	425 Frazier Ave. N, Ste. 2, RR 302–P.O. Box 5191, Niobrara, NE 68760.	(402) 857–2342	(402) 857–2361	*renae.wolf@nebraska.gov.*
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota.	Evelyn Pilcher, ICWA Director	12554 BIA Route 701, P.O. Box 509, Agency Village, SD 57262.	(605) 698–3992	(605) 698–3999	*evelyn.pilcher@state.sd.us.*
Spirit Lake Tribe, North Dakota	Marie Martin, ICWA Coordinator.	7184 Highway 57, P.O. Box 356, Fort Totten, ND 58335.	(701) 766–4404	(701) 766–4722	*slticwadir@spiritlakenation.com.*
Standing Rock Sioux Tribe of North & South Dakota.	Rebecca Greybull, ICWA Coordinator.	Bldg 1 Standing Rock Ave., P.O. Box 770, Fort Yates, ND 58538.	(701) 854–3095	(701) 854–5575	*rgreybull@standingrock.org.*
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.	Bobbie Johnson, ICWA Specialist.	404 Frontage Road, New Town, ND 58763.	(701) 627–8199		*bjohnson@mhanation.com.*
Turtle Mountain Band of Chippewa Indians of North Dakota.	Marilyn Poitra, ICWA Coordinator.	4051 Hwy. 281, P.O. Box 900, Belcourt, ND 58316.	(701) 477–5688	(701) 477–5797	*marilynp@tmcwfs.net.*
Winnebago Tribe of Nebraska	Elexa Mollet, ICWA Specialist	912 Mission Drive, P.O. Box 723, Winnebago, NE 68071.	(402) 878–2379	(402) 878–2228	*elexa.mollet@winnebagotribe.com.*
Yankton Sioux Tribe of South Dakota.	Melissa Sanchez, ICWA Director.	108 East Ave. SE, P.O. Box 1153, Wagner, SD 57380.	(605) 384–5712	(605) 384–5014	*yst_icwa@outlook.com.*

5. Midwest Region

Midwest Regional Director, 5600 West American Blvd., Ste. 500, Pointe II Building, Bloomington, MN 55437; Phone Number: (612) 725–4500; Fax Number: (612) 713–4401.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin.	Gina Secord or Desiree Garcia-Cardoso, Abinoojiyag Resource Center Program Manager, ICWA Case Manager.	P.O. Box 55, Odanah, WI 54861.	(715) 682–7127	(715) 682–7883	*ARCMgr@badriver-nsn.gov.*
Bay Mills Indian Community, Michigan.	Phyllis Kinney, Tribal Court Administrator.	12449 West Lakeshore Drive, Brimley, MI 49715.	(906) 248–3241	(906) 248–5817	*phyllisk@baymills.org.*
Forest County Potawatomi Community, Wisconsin.	Maline Enders, ICWA Supervisor.	5415 Everybody's Road, P.O. Box 340, Crandon, WI 54520.	(715) 478–7471	(715) 478–7442	*Maline.Enders@fcp-nsn.gov.*
Grand Traverse Band of Ottawa & Chippewa Indians, Michigan.	Denise Johnson or Bob Downen, Anishinaabek Family Services Supervisor and CPS Caseworker.	2605 N West Bayshore Drive, Peshawbestown, MI 49682.	(231) 534–7124	(231) 534–7706	*ICWA@gtb-nsn.gov.*
Hannahville Indian Community, Michigan.	Wendy Lanaville, ICWA Contact.	N15019 Hannahville B1 Road, Wilson, MI 49896.	(906) 723–2512	(906) 466–7397	*Wendy.Lanaville@hichealth.org.*
Ho-Chunk Nation of Wisconsin	Valerie Blackdeer, CFS Director	808 Red Iron Road, Black River Falls, WI 54615.	(715) 284–7749	(715) 284–0097	*valerie.blackdeer@ho-chunk.com.*
Keweenaw Bay Indian Community, Michigan.	Corey Pietila, ICWA Designated Agent.	16429 Bear Town Road, Baraga, MI 49908.	(906) 353–4201	(906) 353–8171	*cpietila@kbic-nsn.gov.*
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.	Tibissum Rice, Indian Child Welfare Director.	13394 W Trepania Road, Hayward, WI 54843.	(715) 558–7457	(715) 634–2981	*Tibissum.Rice@lco-nsn.gov.*
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin.	Kristin Allen, ICW Director	P.O. Box 216, Lac du Flambeau, WI 54538.	(715) 588–4275	(715) 588–3855	*ldficw@ldftribe.com.*
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan.	Dee Dee McGeshick or Wendy Thrasher, Social Services Director/ICWA.	P.O. Box 249, Watersmeet, MI 49969.	(906) 358–4940	(906) 358–9920	*Dee.Mcgeshick@lvd-nsn.gov.*
Little River Band of Ottawa Indians, Michigan.	Marissa Kist, Prosecutors Office.	3031 Domres Road, Manistee, MI 49660.	(231) 398–3384	(231) 398–3387	*MarissaKist@lrboi-nsn.gov.*
Little Traverse Bay Bands of Odawa Indians, Michigan.	Heather Boening or Brandon Chojnacki, Human Services Director/Program Manager.	7500 Odawa Circle, Attn: DHS, Harbor Springs, MI 49740.	(231) 242–1620	(231) 242–1635	*ICWA@ltbbodawa-nsn.gov.*
Lower Sioux Indian Community in the State of Minnesota.	Holly Schmitt or Arielle Aude, Lower Sioux Family Services Supervisor.	39458 Reservation Highway 1, Morton, MN 56270.	(507) 697–8680	(507) 697–6198	*lsfsintake@lowersioux.com.*
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan.	Dominique Ambriz, ICWA Representative.	2880 Mission Drive, Shelbyville, MI 49344.	(269) 397–1760	(269) 397–1761	*Dominique.Ambriz@hhs.glt-nsn.gov.*
Menominee Indian Tribe of Wisconsin.	Carol Corn, Director of Social Services.	P.O. Box 520, Keshena, WI 54135.	(715) 799–5161	(715) 799–6061	*MenomineeFamilyServices@mitw.org.*
Minnesota Chippewa Tribe—Bois Forte Band (Nett Lake).	Angela Wright or Dr. Evelyn Campbell, Indian Child Welfare Supervisor.	13071 Nett Lake Road Suite A, Nett Lake, MN 55771.	(218) 757–3295	(218) 757–3335	*amwright@boisforte-nsn.gov.*
Minnesota Chippewa Tribe—Fond du Lac Band.	Janelle Barney or Dr. Evelyn Campbell, ICWA Lead.	927 Trettel Lane, ATTN: Social Services, Cloquet, MN 55720.	(218) 878–2142	(218) 878–2189	*icwanotices@fdlrez.com.*
Minnesota Chippewa Tribe—Grand Portage Band.	Jacki Kozlowski or Dr. Evelyn Campbell, Human Service Director.	P.O. Box 428, Grand Portage, MN 55605.	(218) 475–2453	(218) 475–2455	*jkozlowski@grandportage.com.*
Minnesota Chippewa Tribe—Leech Lake Band.	Justina Farris or Dr. Evelyn Campbell, Intake Coordinator.	190 Sailstar Drive NE, P.O. Box 967, Cass Lake, MN 56633.	(218) 335–8328	(218) 335–3768	*justina.farris@llojibwe.net.*
Minnesota Chippewa Tribe—Mille Lacs Band.	Tabatha Boyd, Paralegal or Dr. Evelyn Campbell, MCT Paralegal.	43408 Oodena Drive, Onamia, MN 56359.	(320) 364–9539	(320) 532–7836	*Notices.OSG@millelacsband.com.*
Minnesota Chippewa Tribe—White Earth Band.	Aimee Millage or Dr. Evelyn Campbell, ICWA/MIFPA Contact.	White Earth Indian Child Welfare, P.O. Box 358, White Earth, MN 56591.	(218) 983–4647	(218) 983–3712	*ICWANOTICES@whiteearth-nsn.gov.*
Nottawaseppi Huron Band of the Potawatomi, Michigan.	Meg Fairchild, Social Services Director.	1485 Mno Bmadzewen Way, Fulton, MI 49052.	(269) 704–8341	(269) 729–5920	*meg.fairchild@nhbp-nsn.gov.*
Oneida Nation	Jennifer Berg-Hargrove or Kim Nicholls, Family Services Director.	Attn: Oneida Family Services, ICW Department, P.O. Box 365, Oneida, WI 54155.	(920) 490–3700	(920) 490–3820	*icw@oneidanation.org.*
Pokagon Band of Potawatomi Indians, Michigan & Indiana.	Mark Pompey, Social Services Director.	58620 Sink Road, Dowagiac, MI 49047.	(269) 462–4277	(269) 782–4295	*mark.pompey@pokagonband-nsn.gov.*
Prairie Island Indian Community in the State of Minnesota.	Sage Yeager, Enrollment Clerk	5636 Sturgeon Lake Road, Welch, MN 55089.	(651) 385–4126	.....	*enrollmentclerk@piic.org.*
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin.	Rebecca Benton, Family & Human Services Administrator.	88455 Pike Road, Bayfield, WI 54814.	(715) 779–3706	(715) 779–3783	*rbenton@redcliff-nsn.gov.*
Red Lake Band of Chippewa Indians, Minnesota.	Red Lake Nation ICWA Team Lead/Social Worker—ICWA Unit.	2000 Aldrich Ave. S, Minneapolis, MN 55405.	(218) 407–5844	.....	*ICWA@redlakenation.org.*
Sac and Fox Tribe of the Mississippi in Iowa.	Mylene Wanatee, Director of Family Services.	P.O. Box 245, Tama, IA 52339	(641) 484–4444	(641) 484–2103	*mylene.wanatee@meskwaki-nsn.gov.*
Saginaw Chippewa Indian Tribe of Michigan.	Angela Gonzalez, ICWA Contact.	7500 E Soaring Eagle Blvd., Mt. Pleasant, MI 48858.	(989) 775–4921	(989) 775–4912	*icwa@sagchip.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Sault Ste. Marie Tribe of Chippewa Indians, Michigan.	Melissa VanLuven, ICWA Program Director.	2218 Shunk Road, Sault Ste. Marie, MI 49783.	(906) 632–5250	(906) 632–5266	*ICWA-MIFPA-Contacts@saulttribe.net.*
Shakopee Mdewakanton Sioux Community of Minnesota.	Lisa Tittle or Beth Mans, Administrator, Child & Family Services/ICWA Contact.	2330 Sioux Trail NW, Prior Lake, MN 55372.	(952) 496–6163	.....	*Beth.Mans@shakopeedakota.org.*
Sokaogon Chippewa Community, Wisconsin.	Mandi VanZile or Michele Shawano, Director Indian Child Welfare/Family Services Director.	3051 Sand Lake Road, Crandon, WI 54520.	(715) 478–6423	(715) 478–0692	*Mandi.eernisse@scc-nsn.gov.*
St. Croix Chippewa Indians of Wisconsin.	Elizabeth Lowe, Indian Child Welfare Director.	4404 State Road 70, Webster, WI 54893.	(715) 214–2940	(715) 349–8665	*elizabethl@stcroixojibwe-nsn.gov.*
Stockbridge Munsee Community, Wisconsin.	Alexia Dellemann, ICWA Manager.	Stockbridge Munsee Health and Wellness Center, W12802 County A, Bowler, WI 54416.	(715) 793–4580	(715) 793–1312	*alexia.dellemann@mohican.com.*
Upper Sioux Community, Minnesota.	Jamie Preuss, Social Services Director.	P.O. Box 147, 5744 Hwy. 67, Granite Falls, MN 56241.	(320) 564–6319	(320) 564–2550	*jamiep@uppersiouxcommunity-nsn.gov.*

6. Navajo Region

Navajo Regional Director, Navajo Regional Office, P.O. Box 1060, Gallup, NM 87305; Phone Number: (505) 863–8314, Fax Number: (505) 863–8324.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Navajo Nation, Arizona, New Mexico & Utah.	Mary Deschenny-Reyna, ICWA Program Manager.	Navajo Indian Child Welfare Act Program, P.O. Box 769, Saint Michaels, AZ 86511.	(928) 871–7006	(928) 871–7604	*mdreyna@navajo-nsn.gov.*

7. Northwest Region

Northwest Regional Director, 911 NE 11th Ave., Portland, OR 97232; Phone Number: (503) 231–6702; Fax Number (503) 231–2201.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Burns Paiute Tribe	James St. Martin, Social Services Director.	100 Pasigo Street, Burns, OR 97720.	(541) 573–8004	(541) 573–4217	*James.StMartin@burnspaiute-nsn.gov.*
Coeur D'Alene Tribe	Toni Whitman, ICW Program Manager.	P.O. Box 408, 1120 B St., Plummer, ID 83851.	(208) 686–0675	(208) 686–2059	*toni.whitman@cdatribe-nsn.gov.*
Confederated Salish and Kootenai Tribes of the Flathead Reservation.	Crystal Bluemel, ICWA Caseworker.	P.O. Box 278, 42487 Complex Blvd, Pablo, MT 59821.	(406) 675–2700	.....	*crystal.bluemel@cskt.org.*
Confederated Tribes and Bands of the Yakama Nation.	Jessica Rammelsberg, Prosecutor.	Attn: Prosecutor's Office, P.O. Box 151, Toppenish, WA 98948.	(509) 865–5121	.....	*Jessica_Rammelsberg@yakama.com.*
Confederated Tribes of Siletz Indians of Oregon.	Anita Bailor, Programs Manager 1.	P.O. Box 549, Siletz, OR 97380	(541) 444–8220	(541) 444–2307	*anitab@ctsi.nsn.us.*
Confederated Tribes of the Chehalis Reservation.	Frances Pickernell, Director of Social Services.	P.O. Box 536, 420 Howanut Rd, Oakville, WA 98568.	(360) 709–1754	(360) 273–5207	*fpickernell@chehalistribe.org.*
Confederated Tribes of the Colville Reservation.	Buffy Nicholson, Children and Family Services Director.	P.O. Box 150, 21 Colville St, Nespelem, WA 99155–011.	(509) 634–2764	(509) 634–2633	*buffy.nicholson@colvilletribes.com.*
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.	Shayne Platz and Iliana Montiel, Lead ICWA Case Mgr and Interim Director of Health and Human Services.	1245 Fulton Ave, Coos Bay, OR 97420.	(541) 297–3450	(541) 304–2180	*splatz@ctclusi.org.*
Confederated Tribes of the Grand Ronde Community of Oregon.	Donna Johnson, ICWA Intake ..	9615 Grand Ronde Road, Grand Ronde, OR 97347.	(503) 879–4529	(503) 879–2142	*donna.johnson@grandronde.org.*
Confederated Tribes of the Umatilla Indian Reservation.	Garrett Brown, Attorney	Confederated Tribes of the Umatilla Indian Reservation—Office of Legal Counsel, 46411 Timine Way, Pendleton, OR 97801.	(541) 429–7403	.....	*GarrettBrown@ctuir.org.*
Confederated Tribes of the Warm Springs Reservation of Oregon.	Cyrille Mitchell, CPS Director ...	P.O. Box C, Warm Springs, OR 97761.	(541) 553–3278	(541) 553–3281	*Cyrille.mitchell@wstribes.org.*
Coquille Indian Tribe	Roni Jackson, ICWA Caseworker.	600 Miluk Drive, P.O. Box 3190, Coos Bay, OR 97420.	(541) 888–9494	(541) 888–0673	*ronijackson@coquilletribe.org.*
Cow Creek Band of Umpqua Tribe of Indians.	Michele Moore, Human Services Director.	2371 NE Stephens Street, Suite 100, Roseburg, OR 97470.	(541) 643–8241	(541) 677–5565	*mmoore@cowcreek-nsn.gov.*
Cowlitz Indian Tribe	Cowlitz Indian Tribe, Attn: Tribal Attorney.	P.O. Box 996, Ridgefield, WA 98642.	(360) 957–8876	.....	*legal@cowlitz.org.*
Hoh Indian Tribe	Kristina Currie	P.O. Box 2196, Forks, WA 98331.	(360) 374–6502	(360) 374–5426	*kristina.currie@hohtribe-nsn.org.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Jamestown S'Klallam Tribe	Jessica Humphries & Dustin Brenske, Youth and ICW Program Supervisor/Deputy Director of Social Services.	Social and Community Services, 1033 Old Blyn Hwy, Sequim, WA 98382.	(360) 460–0644	(360) 681–4647	*jhumphries@jamestowntribe.org.*
Kalispel Indian Community of the Kalispel Reservation.	Kevin Stark, Camas Path Social Services Manager.	934 S Garfield Road, Airway Heights, WA 99001.	(509) 789–7634	(509) 789–7675	*kstark@kalispeltribe.com.*
Klamath Tribes	Lisa Ruiz, Children & Family Service Program Manager.	P.O. Box 436, Chiloquin, OR 97624.	(541) 783–2219	(541) 783–7783	*Lisa.ruiz@klamathtribes.com.*
Kootenai Tribe of Idaho	Desire Aitken, Council member	P.O. Box 1269, Bonners Ferry, ID 83805.	(208) 267–3519	(208) 267–2960	*desire@kootenai.org.*
Lower Elwha Tribal Community	Vashti White, ICW Program Manager.	3080 Lower Elwha Road, Port Angeles, WA 98363.	(360) 565–7257	(866) 277–3141	*elwhaicw@elwha.org.*
Lummi Tribe of the Lummi Reservation.	Robert Ludgate, Child Welfare Program Manager.	P.O. Box 1024, Ferndale, WA 98248.	(360) 384–2324	(360) 384–2341	*LIBCCPS@lummi-nsn.gov.*
Makah Indian Tribe of the Makah Indian Reservation.	Crysandra Sones, Social Services Manager.	P.O. Box 115, Neah Bay, WA 98357.	(360) 645–3270	(360) 645–2806	*crysandra.sones@makah.com.*
Metlakatla Indian Community, Annette Island Reserve.	Jacqueline Wilson, ICWA Social Worker, Social Services Director.	P.O. Box 8, Metlakatla, AK 99926.	(907) 886–6914	(907) 886–6913	*jwilson@metlakatla.com.*
Muckleshoot Indian Tribe	Alexandria Cruz-James, Director of Human Services.	39015 172nd Avenue SE, Auburn, WA 98092.	(253) 876–3261	(253) 876–3061	*alex.cruz@muckleshoot.nsn.us.*
Nez Perce Tribe	Rebecca Lehman/Jackie McArthur, Director of Indian Child Welfare/Social Services Manager.	326 Agency Rd, P.O. Box 365, Lapwai, ID 83540.	(208) 621–4666	(208) 843–9401	*rebeccal@nezperce.org.*
Nisqually Indian Tribe	Norine Wells/Betty Pacheco, Social Services Director/NCFS Manager.	4820 She-Nah-Num Drive SE, Olympia, WA 98513.	(360) 413–3015	(360) 486–9555	*wells.norine@nisqually-nsn.gov.*
Nooksack Indian Tribe	Megan Cooper, Director, Nooksack Youth & Family Services.	P.O. Box 157, Deming, WA 98244.	(360) 398–6557	(360) 592–0167	*mcooper@nooksack-nsn.gov.*
Northwestern Band of the Shoshone Nation.	Courtney Muir, Tribal Benefits Coordinator.	Enrollment Department, 2575 Commerce Way, Odgen, UT 84401.	(435) 734–2286	(435) 734–0424	*cmuir@nwbshoshone.com.*
Port Gamble S'Klallam Tribe	Cheryl Miller, Children and Family Services Director.	31912 Little Boston Road NE, Kingston, WA 98346.	(360) 297–9665	(360) 297–9666	*cmiller@pgst.nsn.us.*
Puyallup Tribe of the Puyallup Reservation.	Marriah Betschart, ICW Tribal/State Liaison.	3009 E Portland Avenue, Tacoma, WA 98404.	(253) 442–5368	(253) 680–5998	*Marriah.E.Betschart@PuyallupTribe-nsn.gov.*
Quileute Tribe of the Quileute Reservation.	Rebecca Ellis & Brittany Hutton, ICW Caseworker.	P.O. Box 279, LaPush, WA 98350.	(360) 640–3221		*quileute.icw@quileutetribe.com.*
Quinault Indian Nation	Amelia DeLaCruz, Social Services Manager.	P.O. Box 189, Taholah, WA 98587.	(360) 276–8215	(360) 276–4152	*icw@quinault.org.*
Samish Indian Nation	Caritina Gonzalez, Social Services Director.	Samish Nation Social Services, 715 Seafarer's Way Suite 103, Anacortes, WA 98221.	(360) 298–6431	(360) 299–4357	*cgonzalez@samishtribe.nsn.us.*
Sauk-Suiattle Indian Tribe	Tempest Dawson, Health & Social Services Director.	5318 Chief Brown Lane, Darrington, WA 98241.	(360) 436–2210	(360) 436–2227	*tdawson@sauk-suiattle.com.*
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation.	Kathirine Horne, Director	P.O. Box 130, Tokeland, WA 98590.	(360) 267–8134	(360) 267–0247	*khorne@shoalwaterbay-nsn.gov.*
Shoshone-Bannock Tribes of the Fort Hall Reservation.	Malissa Poog/Cheri Outcelt, Shoshone-Bannock Tribal Social Services Child Welfare Program.	P.O. Box 306, Fort Hall, ID 83203.	(208) 478–3731	(208) 237–9736	*Malissa.poog@sb-thhs.com.*
Skokomish Indian Tribe	Shawna Hill, ICW Supervisor	100 N. Tribal Center Road, Skokomish, WA 98584.	(360) 426–5755	(360) 877–4121	*shawna@skokomish.org.*
Snoqualmie Indian Tribe	Colleen Studinarz, Snoqualmie Indian Child Welfare Program Manager.	P.O. Box 969, Snoqualmie, WA 98065.	(425) 628–1439	(425) 689–1272	*colleen.studinarz@snoqualmietribe.us.*
Spokane Tribe of the Spokane Reservation.	Ricki Peone & Tawhnee Colvin, Health & Human Services Director, Health & Human Services Assistant Director.	P.O. Box 540, 6228 E Old School Road, Wellpinit, WA 99040.	(509) 258–7502	(509) 258–4480	*ricki.peone@spokanetribe.com.*
Squaxin Island Tribe of the Squaxin Island Reservation.	Charlene Abrahamson, Family Services Director.	10 SE Squaxin Lane, Shelton, WA 98584.	(360) 432–3914	(360) 427–2652	*cabrahamson@squaxin.us.*
Stillaguamish Tribe of Indians of Washington.	Megan Boyer	P.O. Box 3782, 17014 59th Ave. NE, Arlington, WA 98223.	(360) 572–3550	(360) 435–7824	*icw@stillaguamish.com.*
Suquamish Indian Tribe of the Port Madison Reservation.	Heather Zaiss, Tribal Child Welfare Director.	P.O. Box 498, Suquamish, WA 98392.	(360) 394–8481	(360) 697–6774	*hzaiss@suquamish.nsn.us.*
Swinomish Indian Tribal Community.	Tracy Parker, Swinomish Family Services Coordinator.	17337 Reservation Rd, LaConner, WA 98257.	(360) 466–7222	(360) 466–1632	*tparker@swinomish.nsn.us.*
Tulalip Tribes of Washington	Natasha Fryberg and Sara Fitzpatrick, Manager and Lead ICW Worker.	2828 Mission Hill Road, Tulalip, WA 98271.	(360) 716–4059	(360) 716–0750	*nfryberg@tulaliptribes-nsn.gov.*
Upper Skagit Indian Tribe	Felice Keegahn, Indian Child Welfare Coordinator.	25944 Community Plaza Way, Sedro Woolley, WA 98284.	(360) 854–7077	(360) 854–7125	*felicek@upperskagit.com.*

8. Pacific Region

Pacific Regional Director, BIA, Federal Building, 2800 Cottage Way, Room W–2820, Sacramento, CA 95825; Phone Number: (916) 978–6000; Fax Number: (916) 978–6055.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California.	Jeff Grubbe, Chairman	5401 Dinah Shore Drive, Palm Springs, CA 92264.	(760) 699–6919	(760) 699–6863	*jplata@aguacaliente.net.*
Alturas Indian Rancheria, California.	Phillip Del Rosa	P.O. Box 340, Alturas, CA 96101.	(541) 941–2324	(530) 223–4165	*air530@yahoo.com.*
Augustine Band of Cahuilla Indians, California.	Heather Haines, Tribal Operations Manager.	P.O. Box 846, Coachella, CA 92236.	(760) 398–4722	(760) 368–4252	*hhaines@augustinetribe.com.*
Bear River Band of the Rohnerville Rancheria, California.	Josefina Cortez, Chairwoman	266 Keisner Rd., Loleta, CA 95551.	(707) 502–8731	(707) 875–7229	*josefinacortez@brb-nsn.gov.*
Berry Creek Rancheria of Maidu Indians of California.	Maria Ramirez, ICWA Director & Tribal Representative.	5 Tyme Way, Oroville, CA 95966.	(530) 534–3859	(530) 534–0343	*mramirez@berrycreekrancheria.com.*
Big Lagoon Rancheria, California.	Virgil Moorehead, Chairperson	P.O. Box 3060, Trinidad, CA 95570.	(707) 826–2079	(707) 826–0495	*vmoorehead@earthlink.net.*
Big Pine Paiute Tribe of the Owens Valley.	Cheryl Levine, Tribal Administrator.	P.O. Box 700, 825 S Main St., Big Pine, CA 93513.	(760) 938–2003	(760) 938–2942	*c.levine@bigpinepaiute.org.*
Big Sandy Rancheria of Western Mono Indians of California.	Elizabeth Taylor, ICWA Representative.	P.O. Box 337, Auberry, CA 93602.	(559) 374–0066		*etaylor@bsrnation.com.*
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California.	ICWA Representative	ICWA, 2726 Mission Rancheria Road, Lakeport, CA 95453.	(707) 263–3924	(707) 533–2941	*resparza@big-valley.net.*
Bishop Paiute Tribe	Tammy Andrade, ICWA Specialist.	50 TuSu Lane, Bishop, CA 93514.	(760) 873–7799	(760) 873–3529	*tammy.andrade@bishoppaiute.org.*
Blue Lake Rancheria, California	Claudia Brundin, Chairperson	P.O. Box 428, Blue Lake, CA 95525.	(707) 668–5101	(707) 668–4272	*lalbright@bluelakerancheria-nsn.gov.*
Bridgeport Indian Colony	John Glazier, Tribal Chair	355 Sage Brush Drive, Bridgeport, CA 93517.	(760) 932–7083	(760) 932–7846	*chair@bridgeportindiancolony.com.*
Buena Vista Rancheria of Me-Wuk Indians of California.	Christina Pimental, Receptionist	1418 20th Street, Suite 200, Sacramento, CA 95811.	(916) 491–0011	(916) 491–0012	*christina@BuenaVistaTribe.com.*
Cabazon Band of Cahuilla Indians.	Doug Welmas, Chairman	84–245 Indio Springs Parkway, Indio, CA 92203.	(760) 342–2593	(760) 347–7880	*nmarkwardt@cabazonindians-nsn.gov.*
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California.	Barbie Buchanan, Director of Community Services.	3730 Highway 45, Colusa, CA 95932.	(530) 458–6576	(530) 458–8061	*bbuchanan@colusa-nsn.gov.*
Cahto Tribe of the Laytonville Rancheria.	Mary J. Norris, Chairperson	P.O. Box 1239, Laytonville, CA 95454.	(707) 984–6197	(707) 984–6201	*chairman@cahto.org.*
Cahuilla Band of Indians	Lisa Mariano, Social Worker	52701 Hwy. 371, Anza, CA 92539–1760.	(951) 795–8672	(951) 763–2808	*Socialworker@cahuilla.net.*
California Valley Miwok Tribe, California.	DOI/Bureau of Indian Affairs	Pacific Regional Office, 2800 Cottage Way, Rm. W–2820, Sacramento, CA 95825.	(916) 978–6000	(916) 978–6099	
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California.	Kassandra Mason, Southern Indian Health Council.	Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, CA 91901.	(619) 445–1188	(619) 659–9782	*kmason@sihc.org.*
Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California).	Kassandra Mason, Southern Indian Health Council.	Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, CA 91901.	(619) 445–1188	(619) 659–9782	*kmason@sihc.org.*
Cedarville Rancheria, California	Richard Lash, Chairperson	300 West 1st Street, Alturas, CA 96101.	(530) 233–3969	(530) 233–4776	*cr.munholand@gmail.com.*
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California.	Angela Sundberg, Social Services Director.	P.O. Box 630, Trinidad, CA 95570.	(707) 677–0211	(707) 677–3921	*asundberg@trinidadrancheria.com.*
Chicken Ranch Rancheria of Me-Wuk Indians of California.	Lloyd Mathiesen, Chairman	P.O. Box 1159, Jamestown, CA 95327.	(209) 984–9066	(209) 984–5606	*chixrnch@mlode.com.*
Cloverdale Rancheria of Pomo Indians of California.	Patricia Mermosillo, Chairperson.	555 S Cloverdale Blvd., Cloverdale, CA 95425.	(707) 894–5775	(707) 894–5727	
Cold Springs Rancheria of Mono Indians of California.	Helena Alarcon, Chairperson	P.O. Box 209, Tollhouse, CA 93667.	(559) 855–5043	(559) 855–4445	
Coyote Valley Band of Pomo Indians of California.	Liz Elgin DeRouen, Executive Director.	2525 Cleveland Ave., Suite H, Santa Rosa, CA 95403.	(707) 463–2644	(707) 463–8956	*liz@icfpp.net.*
Dry Creek Rancheria Band of Pomo Indians, California.	Liz Elgin DeRouen, Executive Director.	2525 Cleveland Avenue, Suite H, Santa Rosa, CA 95403.	(707) 463–2644	(707) 463–8956	*liz@icfppp.net.*
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California.	Augustin Garcia, Chairperson	P.O. Box 757, Lower Lake, CA 95457.	(707) 994–3400	(707) 994–3408	*agarcia@elemindiancolony.com.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Elk Valley Rancheria, California	Dale Miller, Chairman	2332 Howland Hill Rd., Crescent City, CA 95531.	(707) 464–4680	(707) 464–4519	swoods@elk-valley.com.
Enterprise Rancheria of Maidu Indians of California.	Shari Goodwin (Ghalayini), ICWA Director.	2133 Montevista Avenue, Oroville, CA 95965.	(530) 532–9214	(530) 532–1768	sharig@enterpriserancheria.org.
Ewiiaapaayp Band of Kumeyaay Indians, California.	Kassandra Mason, Southern Indian Health Council.	Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, CA 91901.	(619) 445–1188	(619) 659–9782	kmason@sihc.org.
Federated Indians of Graton Rancheria, California.	Greg Sarris, Chairman	6400 Redwood Drive, Suite 300, Rohnert Park, CA 94928.	(707) 566–2288	(707) 566–2291	
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California.	Kevin Dean, Townsend Chairman.	P.O. Box 129, Fort Bidwell, CA 96112.	(530) 279–6310	(530) 279–2233	liz.zendejas@fbicc.com.
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California.	Norman Wilder, Chairperson	P.O. Box 67 or 131 North Hwy. 395, Independence, CA 93526.	(760) 878–5160	(760) 878–2311	receptionist@fortindependence.com.
Greenville Rancheria	Patty Allen, ICWA Coordinator	P.O. Box 279, Greenville, CA 95947.	(530) 284–7990	(530) 284–7299	pallen@greenvillerancheria.com.
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California.	Ronald Kirk, Chairman	ICWA, P.O. Box 63, Elk Creek, CA 95939.	(530) 968–5365	(530) 968–5366	girrancheria@yahoo.com.
Guidiville Rancheria of California.	Merlene Sanchez, Tribal Chairperson.	P.O. Box 339, Talmage, CA 95481.	(707) 462–3682	(707) 462–9183	admin@guidiville.net.
Habematolel Pomo of Upper Lake, California.	Sherry Treppa, Chairperson	375 E Hwy. 20—Suite I, P.O. Box 516, Upper Lake, CA 95485–0516.	(707) 275–0737	(707) 275–0757	aarroyosr@hpultribe-nsn.gov.
Hoopa Valley Tribe, California	Joe Davis, Chairperson	P.O. Box 1348, Hoopa, CA 95546.	(530) 625–4211	(530) 625–4594	hoopa.receptionist@gmail.com.
Hopland Band of Pomo Indians, California.	Josephine Loomis, ICWA Social Case Manager.	3000 Shanel Rd., Hopland, CA 95449.	(707) 472–2100	(707) 744–8643	jloomis@hoplandtribe.com.
Iipay Nation of Santa Ysabel, California.	Linda Ruis, Social Services Director.	Santa Ysabel Social Services Department, P.O. Box 701, Santa Ysabel, CA 92070.	(760) 765–0845	(760) 765–0312	lruis@iipaynation-nsn.gov.
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California.	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	kkolb@indianhealth.com.
Ione Band of Miwok Indians of California.	Sara A. Dutschke, Chairperson	P.O. Box 699, Plymouth, CA 95669.	(209) 245–5800	(209) 245–6377	info@ionemiwok.net.
Jackson Band of Miwuk Indians	Adam Dalton, Chairperson	P.O. Box 1090, Jackson, CA 95642.	(209) 223–1935	(209) 223–5366	mmorla@jacksoncasino.com.
Jamul Indian Village of California.	Kassandra Mason, Southern Indian Health Council.	Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, CA 91901.	(619) 445–1188	(619) 659–9782	kmason@sihc.org.
Karuk Tribe	Samala Maloney, Child Welfare Services Operations Administrator.	P.O. Box 1207, 1519 South Oregon Street, Yreka, CA 96097.	(530) 627–3452	(503) 841–7107	smaloney@karuk.us.
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California.	Liz Elgin DeRouen, Executive Director.	2525 Cleveland Avenue, Suite H, Santa Rosa, CA 95403.	(707) 463–2644	(707) 463–8956	liz@icfpp.net.
Kletsel Dehe Wintun Nation of the Cortina Rancheria.	Charlie Wright, Chairperson	P.O. Box 1630, Williams, CA 95987.	(530) 473–3274	(530) 473–3301	cww281@gmail.com.
Koi Nation of Northern California.	Darin Beltran, Chairperson	P.O. Box 3162, Santa Rosa, CA 95402.	(707) 575–5586	(707) 575–5506	
La Jolla Band of Luiseno Indians, California.	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–5518	(707) 749–5518	kkolb@indianhealth.com.
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California.	Kassandra Mason, Southern Indian Health Council.	Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, CA 91901.	(619) 445–1188	(619) 659–9782	kmason@sihc.org.
Lone Pine Paiute-Shoshone Tribe.	Richard Button & Kathy Brancroft, Chairperson & Enrollment Committee Chairperson.	P.O. Box 747, Lone Pine, CA 93545.	(760) 876–1034	(760) 876–4500	chair@lppsr.org.
Los Coyotes Band of Cahuilla & Cupeno Indians, California.	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	kkolb@indianhealth.com.
Lytton Rancheria of California	Liz Elgin DeRouen, Executive Director.	2525 Cleveland Avenue, Suite H, Santa Rosa, CA 95403.	(707) 463–2644	(707) 463–8956	liz@icfpp.net.
Manchester Band of Pomo Indians of the Manchester Rancheria, California.	Liz Elgin DeRouen, Executive Director.	2525 Cleveland Avenue, Suite H, Santa Rosa, CA 95403.	(707) 463–2644	(707) 463–8956	liz@icfpp.net.
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California.	Angela Elliott Santos, Chairperson.	P.O. Box 1302, Boulevard, CA 91905.	(619) 766–4930	(619) 766–4957	ljbirdsinger@aol.com.
Mechoopda Indian Tribe of Chico Rancheria, California.	Dennis Ramirez, Chairman	125 Mission Ranch Boulevard, Chico, CA 95926.	(530) 899–8922	(530) 899–8517	mit@mechoopda-nsn.gov.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California.	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Middletown Rancheria of Pomo Indians of California.	Marty Comito, ICWA Director	P.O. Box 1035, Middletown, CA 95461.	(707) 987–8288	(707) 987–9091	*mcomito@middletownrancheria.com.*
Mooretown Rancheria of Maidu Indians of California.	Benjamin Clark, Chairman	1 Alverda Drive, Oroville, CA 95966.	(530) 533–3625	(530) 533–3680	*lwinner@mooretown.org.*
Morongo Band of Mission Indians, California.	Legal Department	12700 Pumarra Road, Banning, CA 92220.	(951) 572–6016	(951) 572–6108	*legal@morongo-nsn.gov.*
Northfork Rancheria of Mono Indians of California.	Elaine Bethel Fink & Tawanish Lavell, Chairperson & ICWA Representative.	P.O. Box 929, North Fork, CA 93643.	(559) 877–2461	(559) 877–2467	*nfrancheria@northforkrancheria-nsn.gov.*
Pala Band of Mission Indians	Robert Smith, Chairman	35008 Pala-Temecula Road—PMB–50, Pala, CA 92059.	(760) 891–3500	(760) 891–3587	*morozco@palatribe.com.*
Paskenta Band of Nomlaki Indians of California.	Natasha Magana, Tribal Member at Large.	P.O. Box 709, Corning, CA 96021.	(530) 528–3538	(530) 528–3553	*office@paskenta.org.*
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California.	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Pechanga Band of Indians	Mark Macarro, Chairman	P.O. Box 1477, Temecula, CA 92593.	(951) 770–6105	(951) 695–1778	*cfs@pechanga-nsn.gov.*
Picayune Rancheria of Chukchansi Indians of California.	Orianna C. Walker, ICWA Coordinator.	P.O. Box 2146, Oakhurst, CA 93644.	(559) 412–5590	(559) 440–6494	*orianna.walker@chukchansi.net.*
Pinoleville Pomo Nation, California.	Clayton Freeman, ICWA Coordinator.	500 B Pinoleville Drive, Ukiah, CA 95482.	(707) 463–1454	(707) 463–6601	*claytonf@pinoleville-nsn.gov.*
Pit River Tribe, California (Includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek, and Roaring Creek Rancherias).	Percy Tejada, ICWA Coordinator.	36970 Park Avenue, Burney, CA 96013.	(530) 335–5421	(530) 335–3140	*icwa@pitrivertribe.org.*
Potter Valley Tribe, California	Salvador Rosales, Chairman	2251 South State Street, Ukiah, CA 95482.	(707) 462–1213	(707) 462–1240	*pottervalleytribe@pottervalleytribe.com.*
Quartz Valley Indian Community of the Quartz Valley Reservation of California.	Conrad Croy, ICWA Director	13601 Quartz Valley Rd., Fort Jones, CA 96032.	(530) 468–5907	(530) 468–5908	*Conrad.Croy@qvir-nsn.gov.*
Ramona Band of Cahuilla, California.	Joseph Hamilton, Chairman	P.O. Box 391670, Anza, CA 92539.	(951) 763–4105	(951) 763–4325	
Redding Rancheria, California	Jack Potter, Jr., Chairman	2000 Redding Rancheria Road, Redding, CA 96001.	(530) 225–8979		*hopew@redding-rancheria.com.*
Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California.	Chris Piekarski, ICWA Coordinator.	3250 Road I "B" Building, Redwood Valley, CA 95470.	(707) 485–0361	(707) 485–5726	*icwa@rvrpomo.net.*
Resighini Rancheria, California	Fawn Murphy, Chairperson	P.O. Box 529, Klamath, CA 95548.	(707) 482–2431	(707) 482–3425	*fawn.murphy@resighiniranchеria.com.*
Rincon Band of Luiseno Indians	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Robinson Rancheria	Marsha Lee, ICWA Coordinator	P.O. Box 4015, Nice, CA 95464	(707) 900–1456	(707) 275–0235	
Round Valley Indian Tribes, Round Valley Reservation, California.	James Russ, President	77826 Covelo Road, Covelo, CA 95428.	(707) 983–6126	(707) 983–6128	*president@council.rvit.org.*
San Pasqual Band of Diegueno Mission Indians of California.	Social Services Manager	Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061.	(760) 749–1410	(760) 749–5518	*kkolb@indianhealth.com.*
Santa Rosa Band of Cahuilla Indians, California.	Steven Estrada, Chairperson	P.O. Box 391820, Anza, CA 92539.	(951) 659–2700	(951) 689–2228	*srtribaloffice@aol.com.*
Santa Rosa Indian Community of the Santa Rosa Rancheria, California.	Dr. Wafa Nijmeddin Director, Santa Rosa Rancheria Tachi Yokut Tribal Social Services.	P.O. Box 8, 16835 Alkali Drive, Lemoore, CA 93245.	(559) 924–1278	(559) 925–2931	*wnijmeddin@tachi-yokut-nsn.gov.*
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.	Caren Romero, ICWA	90 Via Juana Lane, Santa Ynez, CA 93460.	(805) 688–7997	(805) 686–9578	*cromero@sythc.org.*
Scotts Valley Band of Pomo Indians of California.	Kathy Russ, ICWA Advocate	1005 Parallel Drive, Lakeport, CA 95453.	(707) 263–4220	(707) 263–4345	
Sherwood Valley Rancheria of Pomo Indians of California.	Melanie Rafanan and Travis Wright, Tribal Chairperson and ICWA Advocate.	190 Sherwood Hill Drive, Willits, CA 95490.	(707) 459–9690	(707) 459–6936	*mrafanan@sherwoodband.com.*
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California.	Regina Cuellar, Chairwoman	P.O. Box 1340, Shingle Springs, CA 95682.	(530) 698–1400	(530) 384–8064	*tribalchairperson@ssband.org.*
Soboba Band of Luiseno Indians, California.	Alicia Golchuk, Director of Soboba Tribal Family Services.	Soboba Tribal Family Services Dept., P.O. Box 487, San Jacinto, CA 92581.	(951) 487–0283	(951) 487–1738	*agolchuk@soboba-nsn.gov.*
Susanville Indian Rancheria, California.	Arian Hart, Tribal Chairwoman	745 Joaquin St., Susanville, CA 96130.	(530) 257–6264	(530) 257–7986	*tribal.chairman@sir-nsn.gov.*
Sycuan Band of the Kumeyaay Nation.	Cody Martinez, Chairman	1 Kwaaypaay Court, El Cajon, CA 92019.	(619) 445–2613	(619) 445–1927	

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Table Mountain Rancheria	Leanne Walker-Grant, Chairperson.	P.O. Box 410, Friant, CA 93626	(559) 822–2587	(559) 822–2693	
Tejon Indian Tribe	Octavio Escobedo, Chairperson	1731 Hasti Acres, Suite 108, Bakersfield, CA 93309.	(661) 834–8566	(661) 834–8564	*office@tejontribe.net.*
Timbisha Shoshone Tribe	Wallace Eddy, ICWA Representative.	621 West Line Street, Suite 109, Bishop, CA 93514.	(760) 872–3614	(760) 872–3670	*icwa@timbisha.com.*
Tolowa Dee-ni' Nation	Dorothy Wait, CFS Director	Community & Family Services, 16299 HWY 101N, Smith River, CA 95567.	(707) 487–9255	(707) 487–0137	*dwait@tolowa.com.*
Torres Martinez Desert Cahuilla Indians, California.	Thomas Tortez, Chairman	TMDCI 66–725 Martinez Rd., P.O. Box 1160, Thermal, CA 92274.	(760) 397–0300	(760) 397–8300	*thomas.tortez@torresmartinez-nsn.gov.*
Tule River Indian Tribe of the Tule River Reservation, California.	Neil Peyron, Chairman	340 North Reservation Road, P.O. Box 589, Porterville, CA 93258.	(559) 781–4271	(559) 781–4610	*Neil.Peyron@tulerivertribe-nsn.gov.*
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.	Diane Carpenter, LMFT ICWA Representative/Supervisor, Social Services Department.	P.O. Box 699, Tuolumne, CA 95379.	(209) 928–5327	(209) 928–1552	*diana@mewuk.com.*
Twenty-Nine Palms Band of Mission Indians of California.	Darrel Mike, Spokesman	46–200 Harrison Place, P.O. Box 2269, Coachella, CA 92236.	(760) 863–2444	(760) 863–2449	
United Auburn Indian Community of the Auburn Rancheria of California.	Gene Whitehouse, Chairman	10720 Indian Hill Road, Auburn, CA 95603.	(530) 883–2390	(530) 833–2380	*jbeck@auburnrancheria.com.*
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California.	Shane Salque, Chairman	25669 Hwy. 6, PMB 1, Benton, CA 93512.	(760) 933–2321	(760) 933–2412	*shanesalque@hotmail.com.*
Wilton Rancheria, California	Cheryl Douglas, Executive Director.	Indian Child Welfare Department, 9728 Kent Street, Elk Grove, CA 95624.	(916) 683–6000	(916) 683–6015	*cdouglas@wiltonrancheria-nsn.gov.*
Wiyot Tribe, California	Theodore Hernandez, Chairperson.	1000 Wiyot Drive, Loleta, CA 95551.	(707) 733–5055	(707) 733–5601	*rpitts@wiyot.us.*
Yocha Dehe Wintun Nation, California.	James Kinter, Tribal Council Secretary.	P.O. Box 18, Brooks, CA 95606	(530) 796–3400	(530) 796–2143	*djones@yochadehe-nsn.gov.*
Yuhaaviatam of San Manuel Nation.	Corey Silva, Tribal Secretary	26569 Community Center Drive, Highland, CA 92346.	(909) 864–8933	(909) 864–0890	*Corey.Silva@sanmanuel-nsn.gov.*
Yurok Tribe of the Yurok Reservation, California.	Jessica Fawn Canez, Tribal Child Welfare and Behavioral Health Director.	P.O. Box 1027, Klamath, CA 95548.	(707) 482–1350	(707) 482–1368	*YurokICWA@yuroktribe.nsn.us.*

9. Rocky Mountain Region

Rocky Mountain Regional Director, 2021 4th Ave. N, Billings, MT 59101; Phone Number: (406) 247–7943; Fax Number: (406) 247–7976.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Montana.	Christine Wright, ICWA Coordinator.	P.O. Box 1027, Poplar, MT 59255.	(406) 768–2308	(406) 768–5658	*c.wright@fortpecktribes.net.*
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.	Kathy Calf Boss Ribs, ICWA Coordinator.	P.O. Box 588, Browning, MT 59417.	(406) 338–5171	(406) 338–7726	*kathybossribs@yahoo.com.*
Chippewa Cree Indians of the Rocky Boy's Reservation, Montana.	Aubrey Henderson, ICWA Case Manager.	96 Clinic Road No., Box Elder, MT 59521.	(406) 395–4092		*icwa@chippewa-cree.org.*
Crow Tribe of Montana	Rebecca Buffalo, ICWA CONTACT.	P.O. Box 340, Crow Agency, MT 59022.	(406) 679–2950		*Rebecca.buffalo@crow-nsn.gov.*
Eastern Shoshone Tribe of the Wind River Reservation, Wyoming.	Vernalyn Bearing, ICWA Agent	P.O. Box 945, Fort Washakie, WY 82514.	(307) 332–6591	(307) 332–6593	*vernalyn.bearing@wyo.gov.*
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.	Myron L. Trottier, ICWA Case Manager.	656 Agency Main Street, Harlem, MT 59526.	(406) 353–8328	(406) 353–4634	*mtrottier@ftbelknap.org.*
Little Shell Tribe of Chippewa Indians of Montana.	Sarah Crawford, ICWA Attorney	511 Central Ave. West, Great Falls, MT 59404.	(406) 315–2400	(406) 315–2401	*icwa.group@lstribe.org.*
Northern Arapaho Tribe of the Wind River Reservation, Wyoming.	Shelley Mbonu, ICWA Director	P.O. Box 951, Riverton, WY 82501.	(307) 335–3957	(307) 240–2256	*shelley.mbonu@northernarapaho.com.*
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana.	Alaina Buffalo Spirit, ICWA Coordinator II.	P.O. Box 128, Lame Deer, MT 59043.	(406) 477–4830	(406) 477–8333	*alaina.buffalospirit@cheyennenation.com.*

10. Southern Plains Region

Southern Plains Regional Director, P.O. Box 368, Anadarko, OK 73005; Phone Number: (405) 247–6673 Ext. 217; Fax Number (405) 247–5611.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Absentee-Shawnee Tribe of Indians of Oklahoma.	Melissa Hill, ICW Director	2025 S. Gordon Cooper Drive, Shawnee, OK 74801.	(405) 395–4492	(405) 395–4495	*mhill@astribe.com.*
Alabama-Coushatta Tribe of Texas.	Melissa Celestine, ICW Director	571 State Park Road #56, Livingston, Texas 77351.	(936) 563–1253	(936) 563–1254	*celestine.melissa@actribe.org.*
Apache Tribe of Oklahoma	ICW Director, Apache ICW Worker.	P.O. Box 9, Carnegie, Oklahoma 73015.	(580) 654–6340		*icw@kiowatribe.org.*
Caddo Nation of Oklahoma	Kalina Youngman, ICW Caseworker.	P.O. Box 729, Anadarko, OK 73005.	(405) 247–8624		*kalina.youngman@wichitatribe.com.*
Cheyenne and Arapaho Tribes, Oklahoma.	Ephram Kelly, ICW Coordinator	P.O. Box 27, Concho, OK 73022.	(405) 422–7557	(405) 422–8249	*rfelter@c-a-tribes.org.*
Citizen Potawatomi Nation, Oklahoma.	Ashley May, ICW Director	1601 S. Gordon Cooper Drive, Shawnee, OK 74801.	(405) 878–4831	(405) 878–4659	*amay@potawatomi.org.*
Comanche Nation, Oklahoma	Evelyn Mithlo-Turner, ICW Director.	P.O. Box 908, Lawton, OK 73502.	(580) 280–4751	(580) 280–4751	*carolm@comanchenation.com.*
Delaware Nation, Oklahoma	Cassandra Acuna, ICW Director.	P.O. Box 825, Anadarko, OK 73005.	(405) 247–2448	(405) 247–5942	*cacuna@delawarenation.com.*
Fort Sill Apache Tribe of Oklahoma.	ICWA Coordinator	43187 US Highway 281, Apache, OK 73006.	(580) 588–2298	(580) 588–3133	*brian.wahnee@fortsillapache-nsn.gov.*
Iowa Tribe of Kansas and Nebraska.	Native American Family Services, Inc.	3303 B Thrasher Rd., White Cloud, KS 66094.	(785) 595–3260		
Iowa Tribe of Oklahoma	Tamera Hudgins, ICW Director	Rt. 1, Box 721 Perkins, OK 74059.	(405) 547–2402	(405) 547–1060	*thudgins@iowanation.org.*
Kaw Nation, Oklahoma	Lebrandia Lamley, ICW Director.	Drawer 50, Kaw City, Oklahoma 74641.	(580) 269–2003	(580) 269–2113	*llemley@kawnation.com.*
Kickapoo Traditional Tribe of Texas.	ICWA Director, ICW Director	2212 Rosita Valley Road, Eagle Pass, Texas 78852.	(830) 421–6300		
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas.	ICWA	824 111th Drive, Horton, KS 66439.	(785) 486–2131		
Kickapoo Tribe of Oklahoma	Nathie Wallace, Indian Child Welfare Director.	P.O. Box 469, McLoud, OK 74851.	(405) 964–5426	(405) 964–5431	
Kiowa Indian Tribe of Oklahoma	Davetta Geimausaddle, ICW Director.	P.O. Box 369, Carnegie, Oklahoma 73015.	(580) 654–2439	(580) 654–2363	*ICW@kiowatribe.org.*
Otoe-Missouria Tribe of Indians, Oklahoma.	Andrea Kihega, Social Services Director.	8151 Highway 177, Red Rock, OK 74651.	(580) 723–4466	(580) 723–1016	*akihega@omtribe.org.*
Pawnee Nation of Oklahoma	Amanda Farren, ICWA Director	P.O. Box 470, Pawnee, OK 74058.	(918) 762–3261	(918) 762–6449	*afarren@pawneenation.org.*
Ponca Tribe of Indians of Oklahoma.	Stephanie Ruminer, ICW Director.	20 White Eagle Drive, Ponca City, OK 74601.	(580) 463–0133	(580) 763–0134	*ptoicw@gmail.com.*
Prairie Band Potawatomi Nation	Julia Alfers, ICW Director	16281 Q. Road, Mayetta, KS 66509.	(785) 966–8325	(785) 966.290	
Sac and Fox Nation of Missouri in Kansas and Nebraska.	Chasity Davis, ICW Director	305 N Main Street, Reserve, KS 66434.	(785) 742–4708	(785) 288–1163	*cdavis@sacandfoxcasino.com.*
Sac and Fox Nation, Oklahoma	Karen Hamilton, ICW Director	215 North Harrison, Box 246, Shawnee, OK 74801.	(918) 968–3526	(405) 395–0858	*karen.hamilton@sacandfoxnation-nsn.gov.*
Tonkawa Tribe of Indians of Oklahoma.	Christi Gonzalez, ICW Director	P.O. Box 70, Tonkawa, OK 74653.	(580) 628–7025	(580) 628–7025	*cgonzalez@tonkwatribe.com.*
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.	Joan Williams, ICW Director	P.O. Box 729, Anadarko, OK 73005.	(405) 247–8627	(405) 247–3256	*joan.williams@wichitatribe.com.*

11. Southwest Region

Southwest Regional Director, 1001 Indian School Road NW, Albuquerque, NM 87104; Phone Number: (505) 563–3103; Fax Number: (505) 563–3101.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Jicarilla Apache Nation, New Mexico.	Lonna Valdez, Director	P.O. Box 1520, Dulce, NM 87528.	(575) 759–7290	(575) 759–7301	*lvaldez@jbhd.org.*
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico.	Augusta Williams, ICWA Case Manager.	107 Sunset Loop, Box 228, Mescalero, NM 88340.	(575) 464–4334	(575) 464–4331	*awilliams@mescaleroapachetribe.com.*
Ohkay Owingeh, New Mexico	Rochelle Thompson, ICWA Manager.	P.O. Box 1187, 220 Popay Avenue, Ohkay Owingeh, NM 87566.	(575) 852–6108	(505) 692–0333	*rochelle.thompson@ohkay.org.*
Pueblo of Acoma, New Mexico	Marsha Vallo/April Pasquale, Child Welfare Specialist/Program Coordinator-Interim Director.	P.O. Box 354, Acoma, NM 87034.	(505) 552–5162	(505) 552–0903	*mlvallo@poamail.org.*
Pueblo of Cochiti, New Mexico	Tanya Devon Torres, Director of Family Services/Tribal Court Administrator.	P.O. Box 255, Cochiti Pueblo, NM 87072.	(505) 465–3139	(505) 465–3173	*tanya.torres@cochiti.org.*
Pueblo of Isleta, New Mexico	Jacqueline Yalch, Social Services Director.	P.O. Box 1270, Isleta, NM 87022.	(505) 869–2772	(505) 869–7575	*Jacqueline.Yalch@isletapueblo.com.*
Pueblo of Jemez, New Mexico	Annette Gachupin, Child Advocate.	P.O. Box 340, Jemez Pueblo, NM 87024.	(575) 834–7117	(575) 834–7103	*agachupin@jemezpueblo.us.*
Pueblo of Laguna, New Mexico	Tracy Zamora, Social Service Program Manager.	Social Services Department, P.O. Box 194, Laguna, NM 87026.	(505) 552–6513	(505) 552–6387	*tzamora@pol-nsn.gov.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Pueblo of Nambe, New Mexico	Julie Bird, ICWA Manager	15A NP 102 West, Santa Fe, NM 87506.	(505) 445–4446	(505) 455–4449	*ICWA@nambepueblo.org.*
Pueblo of Picuris, New Mexico	Mia Pacheco, ICWA Specialist	P.O. Box 127, Penasco, NM 87553.	(575) 587–2519	(575) 587–1003	*icwa@picurispueblo.org.*
Pueblo of Pojoaque, New Mexico.	Arthur Malone, Case Manager/ICWA Specialist.	58 Cities of Gold Road, Suite 5, Santa Fe, NM 87506.	(505) 455–0238	(505) 455–2363	*amalone@pojoaque.org.*
Pueblo of San Felipe, New Mexico.	Darlene J. Valencia and Chasity Sanchez, Family Services Director/ICWA Representative. Child Welfare Worker.	P.O. Box 4339, San Felipe Pueblo, NM 87001.	(505) 771–9900	(505) 771–9978	*dvalencia@sfpueblo.com.*
Pueblo of San Ildefonso, New Mexico.	Lenora Arrietta, ICWA Manager/Family Advocate.	02 Tunyo Po, Santa Fe, NM 87506.	(505) 455–4164	(505) 455–7351	*icwamanager@sanipueblo.org.*
Pueblo of Sandia, New Mexico	Gwen Sena, Case Manager	481 Sandia Loop, Bernalillo, NM 87004.	(505) 771–5005	(505) 771–5038	*gsena@sandiapueblo.nsn.us.*
Pueblo of Santa Ana, New Mexico.	Joscelyn Lister, Social Services Case Worker.	02 Dove Road, Santa Ana Pueblo, NM 87004.	(505) 771–6765	(505) 771–6537	*Joscelyn.lister@santaana-nsn.gov.*
Pueblo of Santa Clara, New Mexico.	Dennis Silva, Director of Social Services.	P.O. Box 580, Espanola, NM 87532.	(505) 753–0419	(505) 753–0420	*dsilva@santaclarapueblo.org.*
Pueblo of Taos, New Mexico	Ezra Bayles, Director	P.O. Box 1846, Taos, NM 87571.	(575) 758–7824	(575) 758–3346	*ebayles@taospueblo.com.*
Pueblo of Tesuque, New Mexico.	Donna Quintana, ICWA Coordinator.	Box 360, T Route 42, Santa Fe, NM 87506.	(505) 469–0173	(505) 820–7780	*donna.quintana@pueblooftesuque.org.*
Pueblo of Zia, New Mexico	Social Services, ICWA Department.	135 Capital Square Drive, Zia Pueblo, NM 87053.	(505) 401–8142	(505) 867–3308	*socialservices@ziapueblo.org.*
Santo Domingo Pueblo	Doris Mina & Virginia Tenorio, Family Services Director & ICWA Representative.	P.O. Box 129, Santo Domingo, NM 87052.	(505) 465–0630	(505) 465–2554	*Virginia.Tenorio@kewa-nsn.us.*
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado.	Angela Lewis, ICWA Social Worker.	MS 53 P.O. Box 737, Ignacio, CO 81137.	(970) 563–2336	(970) 563–4854	*alewis@southernute-nsn.gov.*
Ute Mountain Ute Tribe	Janet Silversmith, ICWA Case Worker.	P.O. Box 309, Towaoc, CO 81334.	(970) 749–9186		*jsilversmith@utemountain.org.*
Ysleta del Sur Pueblo	Leah Lopez, LMSW, Social Services Coordinator.	9314 Juanchido Ln, El Paso, TX 79907.	(915) 860–6170	(915) 242–6556	*lopezl@ydsp-nsn.gov.*
Zuni Tribe of the Zuni Reservation, New Mexico.	Dee Velasco, ICWA Worker	P.O. Box 339, Zuni, NM 87327	(505) 782–7166	(505) 782–7221	*Dee.Velasco@ashiwi.org.*

12. Western

Western Regional Director, 2600 North Central Avenue, 4th Floor Mailroom, Phoenix, AZ 85004; Phone: (602) 379–6600; Fax Number: (602) 379–4413.

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Ak-Chin Indian Community	Dorissa Garcia, Enrollment Coordinator.	42507 West Peters & Nall Road, Maricopa, AZ 85138.	(520) 568–1074	(520) 568–1079	*dgarcia@ak-chin.nsn.us.*
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California.	Sheila Nau, ICWA Director	P.O. Box 1976, Havasu Lake, CA 92363.	(760) 858–5426	(760) 858–5428	*icwa@cit-nsn.gov.*
Cocopah Tribe of Arizona	Rafael D. Morales, Jr., ICWA Specialist.	14515 South Veterans Drive, Somerton, AZ 85350.	(928) 627–3729	(928) 627–3316	*moralesr@cocopah.com.*
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California.	Rebecca Loudbear, Attorney General.	26600 Mohave Road, Parker, AZ 85344.	(928) 669–1271	(928) 669–5675	*rloudbear@critdoj.com.*
Confederated Tribes of the Goshute Reservation, Nevada and Utah.	Jeanine Hooper, Social Services/ICWA Director.	HC 61 Box 6053, Ibapah, UT 84034.	(435) 234–1138	(435) 234–1219	*jeanine.hooper@ctgr.us.*
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada.	Debbie O'Neil, Social Services Director/Health Resource Analyst & Benefit Coordinator.	P.O. Box 140087, Duckwater, NV 89314.	(775) 863–0222	(775) 863–0142	*debbie.oneil@ihs.gov.*
Ely Shoshone Tribe of Nevada	Georgia Valdez, Services Director.	400–B Newe View, Ely, NV 89301.	(775) 289–4133	(775) 289–3237	*dorda123@yahoo.com.*
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon.	Elena Dave, ICWA Advocate	P.O. Box 68, McDermitt, NV 89421.	(775) 532–8259	(775) 532–8060	*alenadave83@gmail.com.*
Fort McDowell Yavapai Nation, Arizona.	Janel Shepherd, CPS/ICWA Coordinator.	P.O. Box 17779, Fountain Hills, AZ 85269.	(480) 789–7990	(855) 674–0898	*jshepherd@fmyn.org.*
Fort Mojave Indian Tribe of Arizona, California & Nevada.	Melvin Lewis Sr., Social Services Department Director.	500 Merriman Avenue, Needles, CA 92363.	(928) 346–1550	(928) 346–1552	*ssdir@ftmojave.com.*
Gila River Indian Community of the Gila River Indian Reservation, Arizona.	Christina Lopez, Family Service Supervisor.	P.O. Box 427, Sacaton, AZ 85147.	(520) 562–3396	(520) 562–3633	*christina.lopez@gric.nsn.us.*
Havasupai Tribe of the Havasupai Reservation, Arizona.	Rita Uqualla, Social Services ICWA Worker.	P.O. Box 10, Supai, AZ 86435	(928) 433–8153	(928) 433–8119	*ruqualla@yahoo.com.*
Hopi Tribe of Arizona	Lorene Vicente, ICWA Coordinator.	P.O. Box 123, Kykotsmovi, AZ 86039.	(928) 401–7138		*Lovicente@hopi.nsn.us.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona.	Idella Keluche, ICWA Coordinator.	P.O. Box 480, Peach Springs, AZ 86434.	(928) 769–2383	(928) 769–2659	*ikeluche@hualapai-nsn.gov.*
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona.	Jennie K. Kalauli, Social Services Director.	HC 65 Box 2, Fredonia, AZ 86022.	(928) 643–8320	(888) 422–4037	*jkalauli@kaibabpaiute-nsn.gov.*
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada.	Fabian Solis, Health & Human Service Director.	1257 Paiute Circle, Las Vegas, NV 89106.	(702) 382–0784	(702) 384–5272	*fsolis@lvpaiute.com.*
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada.	Maribel Morales, ICWA Caseworker.	201 Bowean Street, Lovelock, NV 89419.	(775) 273–7861	(775) 273–3802	*icwa@lovelocktribe.com.*
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada.	Sharol L. McDade, Tribal Administrator.	P.O. BOX 340, Moapa, NV 89025.	(702) 865–2787	(702) 865–2875	*admin.mbop@moapabandofpaiute-s.org.*
Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes).	Sharon Johnson, Family Services Manager.	440 North Paiute Drive, Cedar City, UT 84721.	(435) 586–1112	(435) 238–4261	*sjohnson@fourpointshealth.org.*
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada.	Jennifer Pishion, Youth and Family Services Manager.	1007 Rio Vista Drive, Fallon, NV 89406.	(775) 423–1215	(775) 423–8960	*yfsmanager@fpst.org.*
Pascua Yaqui Tribe of Arizona	Tara Hubbard, Assistant Attorney General.	Office of the Attorney General, 7777 S. Camino Huivism—Bldg. C, Tucson, AZ 85757.	(480) 755–2506	(520) 883–5084	*tara.hubbard@pascuayaqui-nsn.gov.*
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.	Paula Wright, Caseworker	P.O. Box 256, Nixon, NV 89424	(775) 574–1047	(775) 574–1052	*bbennett@plpt.nsn.us.*
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona.	Rena Escalanti-GoForth, ICWA Specialist.	P.O. Box 1899, Yuma, AZ 85366.	(760) 572–0201	(760) 572–2099	*ICWAspecialist@quechantribe.com.*
Reno-Sparks Indian Colony, Nevada.	Anissa Sabori, Interim Acting Human Services Manager.	405 Golden Lane, Reno, NV 89502.	(775) 329–5071	(775) 785–8758	*asabori@rsic.org.*
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona.	Allison Miller, ICWA Manager ...	SRPMIC Social Services/ICWA Unit, 10,005 East Osborn Road, Scottsdale, AZ 85256.	(480) 362–7533	(480) 362–5574	
San Carlos Apache Tribe of the San Carlos Reservation, Arizona.	Aaron Begay, ICWA Coordinator.	P.O. Box 0, San Carlos, AZ 85550.	(928) 475–2313	(928) 475–2342	*abegay09@tss.scat-nsn.gov.*
San Juan Southern Paiute Tribe of Arizona.	Mary Lou Boone, Enrollment Officer.	505 South Main Street, Suite 101, P.O. Box 2950, Tuba City, AZ 86045.	(928) 212–9794	(928) 233–8948	*m.boone@sanjuanpaiute-nsn.gov.*
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada.	Tamara Ashley, Social Worker	P.O. Box 219, Owyhee, NV 89832.	(775) 757–2921	(775) 757–2910	*ashley.tamara@shopai.org.*
Skull Valley Band of Goshute Indians of Utah.	Candace Bear, Chairperson	407 Skull Valley Road, Skull Valley, UT 84029.	(435) 831–4079	(435) 213–2822	*candaceb@svgoshutes.com.*
Summit Lake Paiute Tribe of Nevada.	Randi Lone Eagle, Tribal Chairwoman.	2255 Green Vista Drive, Suite 402, Sparks, NV 89431.	(775) 827–9670	(775) 827–9678	*randi.loneeagle@summitlaketribe.org.*
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band).	Donna Hill or Gelford Jim, Donna, ATTG Coordinator/Acting Administrator or Gelford-Health Director/Acting Administrator.	37 Mountain View Drive, Battle Mountain, NV 89820.	(775) 635–2004	(775) 635–8016	*coordinatorbmbc@hotmail.com.*
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band).	Amanda Gettings, Social Services, ICWA Response Team, A & D Prevention Coordinator, South Fork Band of the Te-Moak Tribe of the Western Shoshone Indians.	21 Lee Unit #13, Spring Creek, NV 89815.	(775) 338–8587	(775) 744–4523	*sftribalservices@gmail.com.*
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band).	Ortencia M. Puhuyaoma, ICWA Designated Agent Wells Band Indian Child Welfare Specialist.	1745 Silver Eagle Drive, Elko Band Council Social Services/ICWA, Elko, NV 89801.	(775) 738–8889	(775) 778–3397	*icwa@elkoband.org.*
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band).	Kelly Hylton, Acting Social Services/ICWA Director.	1707 Mountain View Drive, P.O. Box 809, Wells, NV 89835.	(775) 242–9476	(775) 752–2179	*s.s.kelly.wbc@gmail.com.*
Tohono O'odham Nation of Arizona.	Hue T. Le, Esq, Assistant Attorney General.	P.O. Box 830, Sells, AZ 85634	(520) 383–3410	(520) 383–2689	*Hue.Le@tonation-nsn.gov.*
Tonto Apache Tribe of Arizona	Christine Zuber, Social Worker	#30 Tonto Apache Reservation, Payson, AZ 85541.	(928) 474–5000	(928) 474–9125	*llopez@tontoapache.org.*
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah.	Tonja Willie, ICWA Specialist ...	7175 E 1300 S, Fort Duchesne, UT 84026.	(435) 725–4054	(435) 722–5030	*Tonyaw@utetribe.com.*

Tribe	ICWA agent	Mailing address	Phone No.	Fax No.	Email address
Walker River Paiute Tribe of the Walker River Reservation, Nevada.	Miranda J. Quintero, Social Services Director.	Social Service Department, P.O. Box 146, Schurz, NV 89427.	(775) 773–2058	(775) 773–2096	*mquintero@wrpt.org.*
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches).	Stacy L. Stahl, Social Services Director.	919 US Highway 395 North, Gardnerville, NV 89410.	(775) 265–8691	(775) 265–4593	*Stacy.Stahl@washoetribe.us.*
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona.	Cora Hinton, ICWA Representative.	P.O. Box 1870, Whiteriver, AZ 85941.	(928) 338–4164	(928) 338–1469	*chinton@wmat.us.*
Winnemucca Indian Colony of Nevada.	Haydyn Williams, ICWA Coordinator.	433 West Plumb Lane, Reno, NV 89509.	(775) 329–5800	(775) 329–5819	*Haydyn.williams@winnemuccaindiancolony.org.*
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.	Melissa Stevens, ICWA Caseworker.	2400 West Datsi Street, Camp Verde, AZ 86322.	(928) 649–7108	(928) 567–6832	*mstevens@yan-tribe.org.*
Yavapai-Prescott Indian Tribe ...	Michele Genovese, Senior Administration-Social Services.	530 East Merritt, Prescott, AZ 86301.	(928) 515–7358	.....	*mgenovese@ypit.com.*
Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch, Nevada.	Nathaniel Landa, Human Services Director.	171 Campbell Lane, Yerington, NV 89447.	(775) 783–0200	(775) 463–5929	*nlanda@ypt-nsn.gov.*
Yomba Shoshone Tribe of the Yomba Reservation, Nevada.	Ronald Snooks, Chairman	HC 61 Box 6275, Austin, NV 89310.	(775) 964–6020	(775) 298–5680	*tribalchair@yombatribe.org.*

Paperwork Reduction Act of 1995

This information collection is authorized by OMB Control Number 1076–0186, Indian Child Welfare Act Proceedings in State Court, which expires March 31, 2023.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–05861 Filed 3–21–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAKA01200.L1220000.DA0000.234; BLM_AK_FRN_MO4500169067]

Notice of Intent To Amend the Resource Management Plan for the Campbell Tract Special Recreation Management Area, Anchorage, Alaska, and Prepare an Associated Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Alaska State Director intends to prepare a resource management plan (RMP) amendment with an associated environmental assessment (EA) for the Campbell Tract Off Highway Vehicle (OHV) Designation Amendment. This notice announces the beginning of the scoping process to solicit public comments and seek input on issues and planning criteria.

DATES: The BLM requests that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies by April 21, 2023. To afford the BLM the opportunity to consider issues, please ensure your comments are received prior to the close of 30-day scoping period or 15 days after the last public meeting, whichever is later. The date(s) and time(s) of scoping meetings will be announced at least 15 days in advance through local news releases, newspapers, letters and/or postcards, local stakeholder email list, and through BLM Alaska social media.

ADDRESSES: You may submit comments on issues and planning criteria related to the RMP Amendment and EA addressing OHV route designation on Campbell Tract by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2022130/510.*
- *Email: blm_ak_afo_general_delivery@blm.gov.*
- *Fax:* (907) 267–1267.
- *Mail:* BLM, Campbell Tract OHV Designation Amendment, Attn.: RMPA EA, 4700 BLM Road, Anchorage, AK 99507.

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2022130/510* and at the Anchorage Field Office, 4700 BLM Road, Anchorage, Alaska 99507.

FOR FURTHER INFORMATION CONTACT: Jake Vialpando, Field Manager, telephone (907) 267–1246; address 4700 BLM Road, Anchorage, Alaska 99507; email *blm_ak_afo_general_delivery@blm.gov.* Contact Jake Vialpando to have your name added to our mailing list. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Vialpando. 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: This document provides notice that the BLM Alaska State Director intends to prepare an RMP amendment with an associated EA for the Campbell Tract OHV Designation Amendment within the Anchorage Field Office, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The RMP amendment is being considered to allow the BLM to conduct travel management planning to evaluate authorizing electric bicycles (e-bikes) on existing trails within the Campbell Tract Special Recreation Management Area (SRMA), which would require amending the existing 2008 Ring of Fire RMP.

The planning area is in the Municipality of Anchorage, Alaska, and encompasses approximately 730 acres of public land. The Campbell Tract SRMA is in an urban setting where the routes are connected to municipal park land in Far North Bicentennial Park and adjacent state park lands in Chugach State Park, both of which currently authorize specific types of electric vehicles where traditional bicycles are allowed.

Purpose and Need

The purpose of the project is to establish management guidance specific to OHV use, including e-bikes, on public lands within the Campbell Tract SRMA. The need for this planning effort is to provide for recreation opportunities for a wide variety of user groups in a multi-use setting appropriate for a variety of recreation uses. The 2008 Ring of Fire RMP currently identifies the Campbell Tract SRMA as closed for OHVs. There is a need to amend the Ring of Fire RMP to allow for consideration of management of e-bikes on existing trails.

Preliminary Alternatives

The RMP amendment process will consider whether revising the Campbell Tract SRMA OHV designation from ''Closed'' to ''Limited by vehicle type'', would be allowed, which could authorize vehicles such as Class I e-bikes to be used on the trail system. Preliminary alternatives include the No Action Alternative and the Proposed Action: changing the current OHV designation of ''Closed'' to ''Limited by Vehicle Type'' to potentially allow for advances in recreational electric vehicle technology and provide a seamless recreation trail experience with adjacent park lands. The BLM welcomes comments on all preliminary alternatives, as well as suggestions for additional alternatives.

Planning Criteria

The planning criteria guide the planning effort and lay the groundwork for effects analysis by identifying the preliminary issues and their analytical frameworks. Preliminary issues for the planning area have been identified by BLM personnel and from early engagement conducted for this planning effort with Federal, State, and local agencies, Tribes, and other stakeholders. The BLM has identified eleven preliminary issues for this planning effort's analysis. The planning criteria are available for public review and comment at the ePlanning website (see **ADDRESSES**).

Public Scoping Process

This notice of intent initiates the scoping period and public review of the planning criteria, which guide the development and analysis of the RMP Amendment and EA.

The BLM public scoping meeting for this project will be in person and/or virtual. Public comments will be accepted at the scoping meeting. The specific date(s) and location(s) of the scoping meeting will be announced at least 15 days in advance through local media, newspapers, and the project ePlanning page. You may submit comments to the BLM using one of the methods listed in the **ADDRESSES** section previously.

Interdisciplinary Team

The BLM will use an interdisciplinary approach to develop the plan in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in this planning effort: cultural/Tribal, fisheries, hazardous material, hydrology, lands, range/wildlife/threatened and endangered species, recreation/travel management/visual, riparian, subsistence, vegetation, and environmental education.

Additional Information

The BLM will identify, analyze, and consider mitigation to address the reasonably foreseeable impacts to resources from the proposed plan amendment and all analyzed reasonable alternatives and, in accordance with 40 CFR 1502.14(e), include appropriate mitigation measures not already included in the proposed plan amendment or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation; and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA and land use planning processes for this planning effort to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and Section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of Section 106. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed plan will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Alaska Native Corporations and Alaska Native Tribes on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Alaska Native Tribes and stakeholders that may be interested in or affected by the proposed Campbell Tract OHV Designation Amendment that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1501.9 and 43 CFR 1610.2)

Steven M. Cohn,

State Director.

[FR Doc. 2023–05837 Filed 3–21–23; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0110]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Initial Suitability Request

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 21, 2023,

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning

the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Initial Suitability Request.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF 3252.4.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: The Initial Suitability Request—ATF Form 3252.4 will be used by ATF's Confidential Informant (CI) handlers to collect personally identifiable information (PII), criminal history and other background information, in order to determine an individual's suitability to serve as an ATF CI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 300 respondents will utilize the form annually, and it will take each respondent approximately 120 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 600 hours, which is equal to 300 (total annual respondents) * 1 (# of responses per respondent) * 2 hours (120 minutes).

If additional information is required contact: John Carlson, Department Clearance Officer, Policy and Planning Staff, Office of the Chief Information Officer, United States Department of Justice, Justice Management Division, Two Constitution Square, 145 N Street NE, Mail Stop 3.E–206, Washington, DC 20530.

Dated: March 17, 2023.

John Carlson,

Department Clearance Officer, Policy and Planning Staff, U.S. Department of Justice.

[FR Doc. 2023–05904 Filed 3–21–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shahid Masood, M.D.; Decision and Order

On July 29, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Shahid Masood, M.D. (hereinafter, Registrant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2 (OSC), at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. FM7946481 at the registered address of 667 86th Place, Downers Grove, IL 60516. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''currently without authority to handle controlled substances in the State of Illinois, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).[1]

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA dated February 7, 2023.[2]

Findings of Fact

On November 9, 2021, the State of Illinois Department of Financial and Professional Regulation issued an Order suspending both Registrant's Illinois medical license and Registrant's Illinois controlled substance license. RFAAX 3, Attachment B, at 1, 8. According to Illinois online records, of which the Agency takes official notice, both Registrant's Illinois medical license and Registrant's Illinois controlled substance license are still suspended.[3] Illinois Department of Financial and Professional Regulation, License Lookup, *https://online-dfpr.micropact.com/lookup/licenselookup.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine nor in the handling of controlled substances in Illinois, the state in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh*

[1] According to Agency records, Registrant's DEA Certificate of Registration No. FM7946481 expired on January 31, 2022, and Registrant's request for renewal of his registration was received on January 27, 2022.

[2] Based on the Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAAX 3, at 2–3. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a corrective action plan and therefore has waived any such rights. RFAA, at 2–3; RFAAX 3, at 3; *see also* 21 CFR 1301.43 and 21 U.S.C. 824(c)(2).

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

Blanton, M.D., 43 FR 27616, 27617 (1978).[4]

Pursuant to the Illinois Controlled Substances Act, a ''practitioner'' means ''a physician licensed to practice medicine in all its branches . . . or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.'' 720 Ill. Comp. Stat. Ann. 570/102(kk) (2022). Further, the Illinois Controlled Substances Act requires that ''[e]very person who manufactures, distributes, or dispenses any controlled substances . . . must obtain a registration issued by the Department of Financial and Professional Regulation in accordance with its rules.'' *Id.* at 570/302(a).[5]

Here, the undisputed evidence in the record is that Registrant currently lacks authority to handle controlled substances in Illinois as both his Illinois medical license and his Illinois controlled substance license are suspended. As already discussed, a practitioner must hold a valid controlled substance license to dispense a controlled substance in Illinois. Thus, because Registrant lacks state authority to handle controlled substances, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

[4] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1) (this section, formerly § 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR 71371 and 71372; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR 27617.

[5] The Illinois Controlled Substances Act also authorizes the Department of Financial and Professional Regulation to discipline a practitioner holding a controlled substance license, stating that ''[a] registration under Section 303 to manufacture, distribute, or dispense a controlled substance . . . may be denied, refused renewal, suspended, or revoked by the Department of Financial and Professional Regulation.'' *Id.* at 570/304(a).

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FM7946481 issued to Shahid Masood, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Shahid Masood, M.D., to renew or modify this registration, as well as any other pending application of Shahid Masood, M.D., for additional registration in Illinois. This Order is effective April 21, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–05807 Filed 3–21–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–8]

Heather M. Entrekin, DVM; Decision and Order

On August 9, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Heather M. Entrekin, DVM (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's Certificate of Registration [1] because Respondent is ''without authority to handle controlled substances in the State of Alabama, the state in which [she is] registered with DEA.'' *Id.* at 2.

Respondent timely requested a hearing; thereafter, the Government filed and the Chief Administrative Law Judge (CALJ) granted a Motion for Summary Disposition recommending the revocation of Respondent's registration. Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Recommended Decision or RD), at 5–7. Respondent did not file exceptions to the RD. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the CALJ's rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

Findings of Fact

On May 19, 2022, the Alabama Board of Veterinary Examiners issued an Order that suspended Respondent's Alabama controlled substance license. RD, at 4; *see also* Government's Motion for Summary Disposition, Exhibit (GX) 2, Attachment A, at 1. As of November 22, 2022, Respondent's Alabama controlled substance license was still suspended. RD, at 4; GX 2, Attachment B.[2] Accordingly, the Agency finds that Respondent is not currently licensed to handle controlled substances in Alabama, the state in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . .

[1] Registration No. FE4914164 at the registered address of 1360 Montgomery Hwy., Ste. 114, Vestavia Hills, AL 35216–2750. *Id.* at 1.

[2] The Agency has no indication that the status of Respondent's license (which is not publically available information) has changed. Prior to the issuance of the RD, Respondent acknowledged that her license was suspended. *See* Respondent's Response, at 3–4. Following the issuance of the RD, Respondent did not file any Exceptions to indicate that her license had been restored, nor has the Agency to date received any correspondence from Respondent regarding any changes to the status of her license. Accordingly, the Agency finds that Respondent's Alabama controlled substance license remains suspended as of the date of signature of this Order. Respondent may dispute the Agency's finding by filing a motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order with supporting documentation (showing that Respondent was able to dispense controlled substances on or before the date of this Order). Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition [3] for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[4]

According to Alabama statute, ''[e]very person who manufactures, distributes, or dispenses any controlled substance within [the] state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within [the] state must obtain annually a registration issued by the certifying boards in accordance with [their] rules.'' Ala. Code section 20–2–51(a) (2022); *see also* Ala. Admin. Code r. 930–X–1.13(1) (2022) (''[a]ll licensed veterinarians who handle controlled substances must register annually with the State Board and get a state controlled substance number from the Board''). Further, ''dispense'' means ''[t]o deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Ala. Code section 20–2–2(7) (2022).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to dispense controlled substances in Alabama because her Alabama controlled substance license has been suspended. RD, at 5. As discussed above, an individual must hold an Alabama controlled substance license to dispense a controlled substance in Alabama. RD, at 5–6. Thus, because Respondent lacks authority to handle controlled substances in Alabama, Respondent is not eligible to maintain a DEA registration. *See* RD, at 6. Accordingly, the Agency will order that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FE4914164 issued to Heather M. Entrekin, DVM. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Heather M. Entrekin, DVM, to renew or modify this registration, as well as any other pending application of Heather M. Entrekin, DVM, for additional registration in Alabama. This Order is effective April 21, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–05804 Filed 3–21–23; 8:45 am]

BILLING CODE 4410–09–P

[3] As such, the Agency finds Respondent's arguments regarding the permissive nature of 21 U.S.C. 824(a)(3), *see* Respondent's Response, at 3–4, to be unavailing. RD, at 5; *see also Bhanoo Sharma, M.D.,* 87 FR 41355, 41356 n.4 (2022).

[4] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . veterinarian . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR 27617. Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence here that the final outcome of the underlying action against Respondent may still be pending. *See* Respondent's Response, at 3–4. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Alabama, the state in which she is registered with the DEA. *Austin J. Kosier, M.D.,* 87 FR 4941, 4943 (2022).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–2]

Christina Collins, APRN; Decision and Order

On September 28, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Christina Collins, APRN (Respondent). OSC, at 1, 3. The OSC proposed the denial of Respondent's renewal application [1] because Respondent is ''without authority to handle controlled substances in the State of Tennessee, the state in which [she is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Respondent requested a hearing; [2] thereafter the Government filed and the ALJ granted a Motion for Summary Disposition recommending the denial of Respondent's renewal application for her registration. RD, at 7–8. Respondent did not file exceptions to the RD. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

Findings of Fact

On February 28, 2022, the Tennessee Board of Nursing issued a Final Order revoking Respondent's Tennessee license to practice as an Advanced Practice Registered Nurse (APRN license). RD, at 6–7; Government's Submission of Evidence Regarding Proof of Service and Motion for Summary Disposition, Exhibit (GX) D, at 1, 11,

[1] Certificate of Registration No. MC1638696 at the registered address of 6523 Central Avenue Pike, Knoxville, Tennessee 37912. *Id.* at 1.

[2] Respondent's Request for Hearing is dated October 31, 2022, *see* Administrative Law Judge Exhibit (ALJX) 4, at 1, but was deemed filed on November 1, 2022. Further, although Respondent's Request for Hearing was untimely, the Administrative Law Judge (ALJ) accepted the filing. Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Recommended Decision or RD), at 2–4.

13.[3] According to Tennessee's online records, of which the Agency takes official notice, Respondent's APRN license is revoked.[4] Tennessee Department of Health License Verification, *https://apps.health.tn.gov/Licensure/default.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to practice as an Advanced Practice Registered Nurse in Tennessee, the state in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[5]

According to Tennessee statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Tenn. Code Ann. section 39–17–402(7) (2022). Further, a ''practitioner'' means ''[a] physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at section 39–17–402(23)(A). According to Tennessee nursing regulations, ''[c]ertification by the Tennessee Board of Nursing to prescribe and/or issue legend drugs . . . shall authorize a nurse practitioner[6] to prescribe and/or issue such drugs. Any nurse who prescribes and/or issues drugs without proper certification by the Tennessee Board of Nursing shall be subject to disciplinary action by the Board of Nursing . . . .'' Tenn. Comp. R. & Regs. 1000–04-.04(1) (2022).

Here, the evidence in the record is that Respondent lacks authority to practice as an Advanced Practice Registered Nurse in Tennessee. RD, at 7. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Tennessee. Thus, because Respondent lacks authority to practice as an Advanced Practice Registered Nurse in Tennessee and, therefore, is not authorized to handle controlled substances in Tennessee, Respondent is not eligible to maintain a DEA registration. RD, at 7–8. Accordingly, the Agency will order that Respondent's application for renewal of her registration be denied.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the pending application of Christina Collins, APRN, for renewal of her DEA Certificate of Registration No. MC1638696, as well as any other pending application of Christina Collins, APRN, for additional registration in Tennessee. This Order is effective April 21, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–05802 Filed 3–21–23; 8:45 am]

BILLING CODE 4410–09–P

[3] In that Order, the Board went on to state that, ''[s]hould Respondent be granted a new advance practice registered nurse certificate by this Board [in the future], Respondent's advance practice registered nurse certificate shall be restricted to prohibit Respondent from prescribing controlled substances.'' GX D, at 11.

[4] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[5] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR 27617. Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action here. *See* Respondent's Reply to the Government's Motion for Summary Disposition, at 4–8; RD, at 6–7. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Tennessee, the state in which she is registered with the DEA. *Adley Dasilva, P.A.,* 87 FR 69341, 69341 n.2 (2022).

[6] Prior to revocation, Respondent's APRN license designated Respondent as a ''Nurse Practitioner with Certificate of Fitness.''

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–12]

Karl Kauffman, M.D.; Decision and Order

On November 18, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Karl Kauffman, M.D. (Respondent). OSC, at 1, 3. The OSC proposed the revocation of

Respondent's registration [1] because Respondent is ''without authority to handle controlled substance[s] in Texas, the state in which [he is] registered with DEA.'' OSC, at 2 (citing 21 U.S.C. 824(a)(3)).

Respondent timely requested a hearing; thereafter, the Government filed and the Chief Administrative Law Judge (hereinafter, CALJ) granted a Motion for Summary Disposition recommending the revocation of Respondent's registration. Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter, RD), at 5–6. Respondent did not oppose the Government's Motion or file exceptions to the RD. *Id.* at 2. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the CALJ's rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

Findings of Fact

On March 30, 2022, the Texas Medical Board issued an Order of Temporary Suspension that suspended Respondent's Texas medical license. RD, at 4; *see also* Government's Notice of Filing of Evidence and Motion for Summary Disposition, Exhibit (GX) A, at 1–2. According to Texas online records, of which the Agency takes official notice, Respondent's license is still suspended.[2] Texas Medical Board License Verification, *https://profile.tmb.state.tx.us* (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not currently licensed to engage in the practice of medicine in Texas, the state in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[3]

According to Texas statute, ''[d]ispense'' means ''the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.'' Tex. Health & Safety Code Ann. § 481.002(12) (2022). Further, a ''practitioner'' means ''a physician . . . or other person licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 481.002(39)(A).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Texas. RD, at 4–5. As discussed above, a person must be a licensed practitioner to dispense a controlled substance in Texas. *Id.* at 5. Thus, because Respondent lacks authority to practice medicine in Texas and, therefore, is not authorized to handle controlled substances in Texas, Respondent is not eligible to maintain a DEA registration. *Id.* Accordingly, the Agency will order that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FK0627642 issued to Karl Kauffman, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Karl Kauffman, M.D., to renew or modify this registration, as well as any other pending application of Karl Kauffman, M.D., for additional registration in Texas. This Order is effective April 21, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–05805 Filed 3–21–23; 8:45 am]

BILLING CODE 4410–09–P

[1] Certificate of Registration No. FK0627642 at the registered address of 2675 41st Street SE, Paris, Texas 75462. *Id.* at 1. According to Agency records, Respondent's Certificate of Registration No. FK0627642 expired on December 31, 2022. The fact that a registrant allows his registration to expire during the pendency of an OSC does not impact the Agency's jurisdiction or prerogative under the Controlled Substances Act (hereinafter, CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.,* 84 FR 68474, 68476 through 68479 (2019).

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[3] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1) (this section, formerly § 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. 117–215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR 71371 and 71372; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR 27617.

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Section 503 of the Rehabilitation Act of 1973, as Amended

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Federal Contract Compliance Programs (OFCCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 21, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793. Section 503 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination against applicants and employees because of physical or mental disability and requires contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. Section 503 applies to Federal contractors and subcontractors with contracts in excess of $15,000. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 16, 2022 (87 FR 68743).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OFCCP.

Title of Collection: Section 503 of the Rehabilitation Act of 1973, As Amended.

OMB Control Number: 1250–0005.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 35,114,831.

Total Estimated Number of Responses: 35,114,831.

Total Estimated Annual Time Burden: 3,650,074 hours.

Total Estimated Annual Other Costs Burden: $1,120,562.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2023–05833 Filed 3–21–23; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labor Market Information Cooperative Agreement

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 21, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) 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.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The BLS enters into Cooperative Agreements with State Workforce Agencies (SWAs) in the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, annually to provide financial assistance to the SWAs for the production and operation of one or more of four Labor Market Information (LMI) programs: Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment and Wage Statistics, and Quarterly Census of Employment and Wages. The Cooperative Agreement provides the basis for managing the administrative and financial aspects of these programs. The Cooperative Agreement package includes application instructions and materials, as well as financial reporting, closeout, and other administrative requirements as provided for by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR 200).

The Department of Labor (DOL) is implementing a new grants management

system, GrantSolutions, and the BLS will be transitioning to this new system in June 2023. The BLS is seeking approval to incorporate changes into the fiscal year 2023 LMI Cooperative Agreement application package resulting from the move to GrantSolutions. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 18, 2020 (85 FR 73515).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The current approval is scheduled to expire on June 30, 2024.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–BLS.

Title of Collection: Labor Market Information Cooperative Agreement.

OMB Control Number: 1220–0079.

Affected Public: State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 54.

Total Estimated Number of Responses: 933.

Total Estimated Annual Time Burden: 756 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2023–05834 Filed 3–21–23; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 21–CRB–0009–SD (2020 SD)]

Distribution of 2020 Satellite Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice requesting comments.

SUMMARY: The Copyright Royalty Judges solicit comments on a motion of Allocation Phase claimants for partial distribution of 2020 satellite royalty funds.

DATES: Comments are due on or before April 21, 2023.

ADDRESSES: Interested claimants must submit timely comments using eCRB, the Copyright Royalty Board's online electronic filing application, at *https://app.crb.gov.*

Instructions: All submissions must include a reference to the CRB and docket number) 21–CRB–0009–SD (2020 SD). All submissions will be posted without change to eCRB at *https://app.crb.gov* including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's online electronic filing and case management system, at *https://app.crb.gov* and search for docket no. 21–CRB–0009–SD (2020 SD).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Each year satellite providers must submit royalty payments to the Register of Copyrights as required by the statutory license set forth in section 119 of the Copyright Act for the retransmission to satellite subscribers of over-the-air television broadcast signals. *See* 17 U.S.C. 119(b). The Copyright Royalty Judges (Judges) oversee distribution of royalties to copyright owners whose works were included in a qualifying transmission and who timely filed a claim for royalties.

Allocation of the royalties collected occurs in one of two ways. In the first instance, the Judges may authorize distribution in accordance with a negotiated agreement among all claiming parties. 17 U.S.C. 119(b)(5)(A), 801(b)(3)(A). If all claimants do not reach an agreement with respect to the royalties, the Judges must conduct a proceeding to determine the distribution of any royalties that remain in controversy. 17 U.S.C. 119(b)(5)(B), 801(b)(3)(B). Alternatively, the Judges may, on motion of claimants and on notice to all interested parties, authorize a partial distribution of royalties, reserving on deposit sufficient funds to resolve identified disputes. 17 U.S.C. 119(b)(5)(C), 801(b)(3)(C).

On March 9, 2023, representatives of all the Allocation Phase (formerly ''Phase I'') claimant categories [1] filed with the Judges a motion requesting a partial distribution amounting to 40% of the 2020 satellite royalty funds on deposit pursuant to section 801(b)(3)(C) of the Copyright Act. That statutory section requires that, before ruling on the motion, the Judges publish a notice in the **Federal Register** seeking responses to the motion for partial distribution to ascertain whether any claimant entitled to receive the subject royalties has a reasonable objection to the requested distribution. 17 U.S.C. 801(b)(3)(C).

Accordingly, this notice seeks comments from interested claimants on whether any reasonable objection exists that would preclude the distribution of 40% of the 2020 satellite royalty funds to the Allocation Phase Claimants. Parties objecting to the proposed partial distribution must advise the Judges of the existence and extent of all their objections by the end of the comment period. The Judges will not consider any objections with respect to the partial distribution motion that come to their attention after the close of the comment period.

Members of the public may read the motion by accessing the Copyright Royalty Board's electronic filing and case management system at *https://app.crb.gov* and searching for Docket No. 21–CRB–0009–SD (2020 SD).

Dated: March 16, 2023.

David P. Shaw,

Chief Copyright Royalty Judge.

[FR Doc. 2023–05811 Filed 3–21–23; 8:45 am]

BILLING CODE 1410–72–P

[1] The representatives are Program Suppliers; Joint Sports Claimants; Commercial Television Claimants Group; Devotional Claimants; Broadcast Music, Inc.; American Society of Composers, Authors and Publishers; and SESAC, Inc., which represent traditionally recognized claimant categories. The Judges have not determined, and do not by this notice determine, the universe of claimant categories for 2020 satellite retransmission royalties.

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 21–CRB–0008–CD (2020 CD)]

Distribution of 2020 Cable Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice requesting comments.

SUMMARY: The Copyright Royalty Judges solicit comments on a motion of Allocation Phase claimants for partial distribution of 2020 cable royalty funds.

DATES: Comments are due on or before April 21, 2023.

ADDRESSES: Interested claimants must submit timely comments using eCRB, the Copyright Royalty Board's online electronic filing application, at *https://app.crb.gov.*

Instructions: All submissions must include a reference to the CRB and docket number 21–CRB–0008–CD (2020 CD). All submissions will be posted without change to eCRB at *https://app.crb.gov* including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's online electronic filing and case management system, at *https://app.crb.gov* and search for docket number 21–CRB–0008–CD (2020 CD).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Each year cable systems must submit royalty payments to the Register of Copyrights as required by the statutory license detailed in section 111 of the Copyright Act for the retransmission to cable subscribers of over-the-air television and radio broadcast signals. *See* 17 U.S.C. 111(d). The Copyright Royalty Judges (Judges) oversee distribution of royalties to copyright owners whose works were included in a qualifying transmission and who file a timely claim for royalties.

Allocation of the royalties collected occurs in one of two ways. In the first instance, the Judges may authorize distribution in accordance with a negotiated agreement among all claiming parties. 17 U.S.C. 111(d)(4)(A), 801(b)(3)(A). If all claimants do not reach agreement with respect to the royalties, the Judges must conduct a proceeding to determine the distribution of any royalties that remain in controversy. 17 U.S.C. 111(d)(4)(B), 801(b)(3)(B). Alternatively, the Judges may, on motion of claimants and on notice to all interested parties, authorize a partial distribution of royalties, reserving on deposit sufficient funds to resolve identified disputes. 17 U.S.C. 111(d)(4)(C), 801(b)(3)(C).

On December 30, 2022, representatives of all the Allocation Phase (formerly ''Phase I'') claimant categories [1] filed with the Judges a motion pursuant to section 801(b)(3)(C) of the Copyright Act requesting a partial distribution amounting to 40% of the 2020 cable royalty funds on deposit. That statutory section requires that, before ruling on the motion, the Judges publish a notice in the **Federal Register** seeking responses to the motion for partial distribution to ascertain whether any claimant entitled to receive the subject royalties has a reasonable objection to the requested distribution. 17 U.S.C. 801(b)(3)(C).

Accordingly, this notice seeks comments from interested claimants on whether any reasonable objection exists that would preclude the distribution of 40% of the 2020 cable royalty funds to the requesting claimant representatives. Parties objecting to the proposed partial distribution must advise the Judges of the existence and extent of all objections by the end of the comment period. The Judges will not consider any objections with respect to the partial distribution that come to their attention after the close of the comment period.

Members of the public may read the motion by accessing the Copyright Royalty Board's electronic filing and case management system at *https://app.crb.gov* and searching for docket number 21–CRB–0008–CD (2020 CD).

Dated: March 16, 2023.

David P. Shaw,

Chief Copyright Royalty Judge.

[FR Doc. 2023–05812 Filed 3–21–23; 8:45 am]

BILLING CODE 1410–72–P

[1] The representatives are Program Suppliers; Joint Sports Claimants; Public Television Claimants; Devotional Claimants; Commercial Television Claimants; Canadian Claimants Group; National Public Radio; American Society of Composers, Authors and Publishers; Broadcast Music, Inc.; and SESAC, Inc. which represent traditionally recognized claimant categories. The Judges have not determined, and do not by this notice determine, the universe of claimant categories for 2020 cable retransmission royalties.

OFFICE OF MANAGEMENT AND BUDGET

Delegation of Apportionment Authority

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: Pursuant to The Executive Office of the President Appropriations Act, 2022, the Office of Management and Budget is publishing its delegation of apportionment authority to respond to a continuity event.

DATES: This delegation became effective on January 20, 2021.

FOR FURTHER INFORMATION CONTACT: Heather V. Walsh at 202–395–3642 or *MBX.OMB.OGC@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

Delegation of Apportionment Authority To Respond to a Continuity Event

I hereby delegate to the following individuals, in order of succession, the authorities delegated by the President to the Director of the Office of Management and Budget for apportioning funds pursuant to 31 U.S.C. 1513 when the Deputy Associate Director (DAD) (to whom such apportionment authority was previously delegated by the Director of the Office of Management and Budget) with current apportionment authority for an account is not available to apportion or reapportion the account because of a continuity event:

1. Branch Chief responsible for the account
2. Another Branch Chief from the same DAD area
3. Another DAD from the same Program Associate Director (PAD) area
4. Another DAD from a different PAD area
5. Assistant Director of BRD
6. PAD from the same DAD area

This delegation of authority will remain in place until revised or revoked, and it may not be re-delegated by the individual to whom it has been delegated. The delegation does not limit the authority of the Director to exercise the delegated authority.

Shalanda D. Young,

Director, Office of Management and Budget.

[FR Doc. 2023–05895 Filed 3–21–23; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 23–022]

Name of Information Collection: Safety and Health Measures and Mishap Reporting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by May 22, 2023.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bill Edwards-Bodmer, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 757–864–3292, or *b.edwards-bodmer@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for authorization to collect information under the NASA Federal Acquisition Regulation Supplement (NFS) Clause, 1852.223–70, Safety and Health Measures and Mishap Reporting, formerly entitled ''Safety and Health.'' While the clause is proposed to be revised to eliminate some information collected requirements, two distinct information collection requirements will remain (1) notification of a Type A, B, C, or D Mishap, or a close call as defined in NASA Procedural Requirements (NPR) 8621.1 Mishap and Close Call Reporting, Investigating and Recordkeeping, and (2) quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses.

II. Methods of Collection

Electronic.

III. Data

Title: Safety and Health Measures and Mishap Reporting.

OMB Number: 2700–0160.

Type of Review: Reinstatement.

Affected Public: NASA contract personnel.

Estimated Annual Number of Activities: 6.

Estimated Number of Respondents per Activity: 154.

Annual Responses: 924.

Estimated Time per Response: 5 hours.

Estimated Total Annual Burden Hours: 4,312.

Estimated Total Annual Cost: $70,054.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

William Edwards-Bodmer,

NASA PRA Clearance Officer.

[FR Doc. 2023–05856 Filed 3–21–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 23–023]

Name of Information Collection: Financial Assistance Awards/Grants and Cooperative Agreements

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collections.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by May 22, 2023.

ADDRESSES: Written comments and recommendations for these information collections should be sent within 60 days of publication of this notice to *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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of these information collection instruments and instructions should be directed to Bill Edwards-Bodmer, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, call 757–864–3292, or email *b.edwards-bodmer@nasa.gov*.

SUPPLEMENTARY INFORMATION:

2700–0092

I. Abstract

This is a notice to revise OMB control number 2700–0092 to include a voluntary demographic information collection that is currently represented by 2700–0161. This collection is required to ensure proper accounting of Federal funds and property provided under financial assistance awards (grants and cooperative agreements) per 2 CFR 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. 2 CFR 200, subparts A through F, applies to all NASA award recipients except for for-profit organizations. Only Subparts A through D of 2 CFR 200 apply to for-profit organizations. Reporting and recordkeeping are prescribed at 2 CFR part 1800—Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The requirements in 2 CFR part 1800 are applicable to awards that NASA issues to non-Federal entities, government, for-profit organization, and foreign organizations as allowed by 2 CFR 200.101, Applicability.

II. Methods of Collection

Grant and cooperative agreement proposals are submitted electronically through the NASA Solicitation and Proposal Integrated Review and Evaluation System (NSPIRES) or *Grants.gov*. The use of these systems reduces the need for proposers to submit multiple copies to the agency. Proposers may submit multiple proposals and notices of intent to different funding announcements without registering in NSPIRES each time.

Basis of Estimate

Approximately 7,000 NASA financial assistance awards are open at any one time. It is estimated that out of the 9,900 proposals received each year, NASA awards approximately 1,977 new awards. The period of performance for each financial assistance award is usually three to five years. Performance

reports are filed annually, and historical records indicate that, on average, 1,625 changes to these reports are submitted annually. The total number of respondents is based on the average number of proposals that are received each year and the average number of active grants and cooperative agreements that are managed each year. The total number of hours spent on each task was estimated through historical records and experience of former recipients. Using past calculations, the total cost was estimated using the average salary (wages and benefits) for a GS–12 step 5.

III. Data

Title: Financial Assistance Awards/Grants and Cooperative Agreements.

OMB Number: 2700–0092.

Type of review: Revision of a previously approved information collection.

Affected Public: Non-profits, institutions of higher educations, government, and for-profit entities.

Estimated Annual Number of Activities: 300.

Estimated Number of Respondents per Activity: 36.

Annual Responses: 10,800.

Estimated Time per Response: 120 hours.

Estimated Total Annual Burden Hours: 1,296,000 hours.

Estimated Total Annual Cost: $47,952,000.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

2700–0161

I. Abstract

A Federal grant is an award of financial assistance from a Federal agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States. The NASA Procurement Office supports NASA research, science, and education communities through the award of research/education/and training grants in the science, technology, engineering, and math (STEM) fields. NASA has a continuing commitment to identify and address inequities associated with its grant review and awards processes. To support that commitment, NASA implemented a process to collect demographic data from grant applicants for the purpose of analyzing demographic differences associated with its award processes. Information collected includes the name, gender, race, ethnicity, disability status, citizenship status, education, and career data of the respondents. Submission of the information is voluntary and is not a precondition of award. However, if the information is not submitted, it will undermine the usefulness of information received from other respondents.

II. Methods of Collection

Electronic.

III. Data

Title: Research and Related Personal Data.

OMB Number: 2700–0161.

Type of Review: Reinstatement of expired information collection in use.

Affected Public: Not-For-Profit Institutions.

Estimated Number of Respondents: 5,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Public Burden Hours: 416.7.

Estimated Total Annual Government Cost: $37,500.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

William Edwards-Bodmer,

NASA PRA Clearance Officer.

[FR Doc. 2023–05863 Filed 3–21–23; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–073; NRC–2023–0051]

GE-Hitachi Nuclear Energy Americas, LLC; Nuclear Test Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering renewal of Facility License No. R–33, held by the GE-Hitachi Nuclear Energy Americas, LLC (GE-Hitachi or the licensee), for the continued operation of the Nuclear Test Reactor (NTR or the reactor), located on the Vallecitos Nuclear Center (VNC) site in Sunol, Alameda County, CA. The NRC is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed action.

DATES: The EA and FONSI referenced in this document are available on March 22, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0051 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–2023–0051. 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 by phone at 1–800–397–4209 or 301–415–4737, or by email to

PDR.Resource@nrc.gov. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Duane Hardesty, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3724; email: *Duane.Hardesty@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of a renewed Facility Operating License No. R–33, held by GE-Hitachi, which would authorize continued operation of its NTR, located on the VNC site in Sunol, Alameda County, CA. The renewed license would authorize continued operation of the NTR for an additional 20 years from the date of issuance of the renewed license.

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 staff prepared this EA documenting its environmental review. Based on the results of the environmental review as documented in the EA that follows, the NRC has determined not to prepare an environmental impact statement for the proposed renewed license and is issuing a FONSI in accordance with 10 CFR 51.32, ''Finding of no significant impact.''

II. Environmental Assessment

Facility Site and Environs

The NTR at the Vallecitos Nuclear Center is a heterogeneous, high-enriched-uranium, graphite-moderated and reflected light-water-cooled thermal reactor. It is licensed to operate at a power level of up to 100 kilowatts thermal (kWt) and has been in operation since 1957. The NTR is fueled by highly enriched uranium-aluminum alloy disks clad with aluminum.

The NTR lies within the VNC site on the north side of Vallecitos Valley in Sunol, Alameda County, CA. The site slopes upwards from 400 feet (122 meters (m)) above mean sea level (MSL) at its relatively flat southern end to 1,200 feet (366 m) above MSL along a northern ridge. The southern end of the property drains southwest through ditches to Vallecitos Creek, which then discharges to Arroyo de la Laguna near the north end of Sunol Valley. Vallecitos Valley is approximately 2 miles (3.2 kilometers (km)) long and 1 mile (1.6 km) wide and primarily consists of undeveloped grasslands. The towns of Pleasanton and Livermore lie approximately 4 miles (6.4 km) north and 5 miles (8 km) northeast of the VNC site, respectively. Fremont lies approximately 8 miles (12.9 km) southwest of the site.

The NTR is housed within Building 105 of the VNC site. Building 105 lies on a 135-acre (54.7-hectare (ha)) parcel in the southwest quadrant of the site. In addition to the NTR, the building contains offices, laboratories, and storage areas. This area of the site also includes several other buildings and high structures, including a 15-foot-tall (4.6-m) gas-fired boiler exhaust stack and several single and multistory buildings, including Buildings 102, 103, and 106. Additionally, the site contains three other reactor facilities: Vallecitos Boiling-Water Reactor (DPR–1), Empire State Atomic Development Agency Vallecitos Experimental Superheat Reactor (DR–10), and GE Test Reactor (TR–1). DPR–1 and DR–10 are permanently shut down and in active decommissioning. TR–1 is permanently shut down and currently in SAFSTOR (*i.e.,* Safe Storage) under a possession-only license. Figures 1 and 2 in GE-Hitachi's Environmental Report (ER) (included in the list of documents associated with the license renewal application and can be found in Section III ''Availability of Documents'' at the end of this notice) provide a map of the VNC site and an aerial photograph of the site's developed area, respectively. The descriptions of the NTR facility, the site, and the surrounding environs in this EA originate from GE-Hitachi's ER or GE-Hitachi's Safety Analysis Report (SAR) (included in the list of documents associated with the license renewal application and can be found in Section III ''Availability of Documents'' at the end of this notice) unless otherwise cited.

Within Building 105, the NTR is housed within a thick-walled, reinforced concrete Reactor Cell that includes the reactor, reactor control mechanisms, coolant system, and a fuel loading tank. Penetrations into the Reactor Cell provide for passing water, electric power, and air into and out of the cell. The Reactor Cell confines airborne radioactivity and provides for controlled release through an exhaust stack. The stack is 45 feet (13.7 m) above grade level and 9 feet (2.7 m) above the highest point of Building 105. In addition to the Reactor Cell, the NTR includes the Control Room, North Room, South Cell, and Set-up Room. The Reactor Cell and these rooms collectively comprise the NTR and are included within the 10 CFR part 20, ''Standards for Protection Against Radiation,'' Restricted Area wherein radiological controls are implemented for personnel safety.

The Control Room contains the control console, an operator work area, and space for equipment and experiment preparation. Personnel in the Control Room may experience dose rates of 0.6 millirem per hour (mrem/h) during typical reactor operation and up to 2 mrem/h when the aperture (an opening that will allow neutrons to pass through it surrounded by neutron absorbing materials) between the Reactor Cell and the South Cell is open during neutrography operations. The North Room provides access to the north neutron radiography position inside the shielded, concrete monument, as well as the access station for the cable held retractable irradiation facility. The South Cell is a concrete shielded room that provides access to the thermal column, horizontal facility, and the south neutron radiography position. It also contains apertures to the North Room for neutron radiography. The Set-up Room contains storage and space for experiment set-up prior to irradiation or testing.

GE-Hitachi typically operates the NTR for one shift, 5 days per week for a total annual average of approximately 700 full-power hours per year. During operation, the primary coolant core outlet temperature is typically 124 degrees Fahrenheit (°F) (51.1 degrees Celsius (°C)). This results in a delta of 20 °F (−6.7 °C) (across the primary to secondary cooling water heat exchanger. Secondary cooling water temperature is usually below 95 °F (35 °C) and rarely exceeds 100 °F (37.7 °C). Upon leaving the heat exchanger, secondary cooling water flows to the facility drain, which discharges to 50,000-gallon (189,270-liter) site retention basins. GE-Hitachi samples water in these basins to ensure it contains no radioactive material prior to release. During this process, the wastewater cools to ambient temperature. From the retention basins, GE-Hitachi releases the cooled wastewater through an onsite sprinkler irrigation system. To ensure that these releases do not create buildup of trace

byproducts in soil runoff, GE-Hitachi periodically samples sediment in the discharge swale at the southeast end of the VNC property.

The NTR shares many facilities and equipment in Building 105 with other laboratory facilities housed within the building. These include potable water, fire protection, emergency supplies and support, heating, ventilation, and air conditioning, AC electrical distribution, and compressed air.

A detailed description of the NTR and its operations can be found in GE-Hitachi's SAR (included in the list of documents associated with the license renewal application and can be found in Section III ''Availability of Documents'' at the end of this notice) submitted as part of its renewal application.

Description of the Proposed Action

The proposed action would renew Facility Operating License No. R–33 for a period of 20 years from the date of issuance of the renewed license. The proposed action would authorize GE-Hitachi to operate the NTR at a nominal steady-state power of 100 kWt. The proposed action is in accordance with the licensee's application dated November 19, 2020, and supplements dated September 22, 2021; April 22, 2022 and September 15, 2022; and January 27, 2023. The NRC issued the initial facility operating license on October 31, 1957. The NRC subsequently issued renewed facility operating licenses on December 28, 1984, and April 20, 2001. The current facility operating license was set to expire at midnight on April 20, 2021. In accordance with 10 CFR 2.109, ''Effect of timely renewal application,'' the existing license remains in effect until the NRC takes final action on the renewal application.

Need for the Proposed Action

The proposed action is needed to allow the continued operation of the NTR to provide irradiation services for (1) neutron radiography (neutrography) of radioactive and nonradioactive objects, (2) small sample irradiation and activation, (3) sensitive reactivity characterizations of reactor fuel cladding material, (4) training, and (5) calibrations and other testing utilizing a neutron flux for the U.S. Department of Defense (DOD), U.S. national laboratories, and U.S. private industry. A significant use of the facility is the performance of neutron radiography on energetic devices used for DOD applications and the space industry. The NTR is currently one of two facilities in the United States that provides this service.

Environmental Impacts of the Proposed Action

The environmental impacts of the proposed action are described in this EA. As discussed further, the proposed action will not have a significant environmental impact. In addition, the proposed action will not require any physical changes to the facility, and the impacts are similar to those occurring during past operations. Separate from this EA, the NRC staff is performing a safety evaluation, which will be available with the renewed license, if issued.

Radiological Impacts

Environmental Effects of Reactor Operations

Gaseous radioactive effluents resulting from the routine operation of the NTR are released to the environment from the reactor building from an exhaust stack on the roof after passing through a prefilter and a bank of HEPA filters. The NTR stack discharge length is 45 ft (14 m). Argon (Ar)-41 is by far the most significant radionuclide released as a gaseous effluent during normal reactor operations. The maximum release of Ar-41 would occur from continuous operation at full power. GE-Hitachi provided airborne radiological effluent releases for calendar year 2018 as an example of the releases tracked at the NTR indicating that the total noble gases releases from the stack was 190 curies (Ci), the majority of which is Ar-41. NRC staff confirmed the releases of 190 Ci in GE-Hitachi's annual report and determined that it is reasonable to assume most of the releases are due to Ar-41 given that it would be conservative to assume this for dose calculations. The licensee's methodology for determining stack release rate action levels and limits ensures that doses to members of the public due to airborne releases are at or below the 10 CFR 20.1101(d) limit of 10 mrem per year. This meets the 100 mrem per year (mrem/yr) (1 millisieverts per year (mSv/yr) dose equivalent to the maximally exposed individual in 10 CFR 20.1301, ''Dose limits for individual members of the public.''

The only liquid radiation source for the NTR is the primary coolant, but no radioactive liquid effluents are discharged from the facility. The primary coolant is regularly sampled to monitor fuel leakage into the primary coolant, which is vented into a holdup tank prior to reactor startup. The amount of water vented into the holdup tank is small enough that it evaporates, and the tank does not fill. Dose rate measurements of the reactor holdup tank show that no-long lived radionuclides accumulate in the tank. The total amount of liquid waste generated is from the primary coolant sampling, which is approximately one liter per sample. This sample waste is disposed of with the other laboratory waste.

Solid radioactive waste generated from reactor operations at the NTR are primarily contaminated paper and plastic, filters, and resins. Shipments of solid radioactive low-level waste consist of one to three cubic feet (less than one cubic meter) of contaminated material per year with activity in the order of millicuries. Once transferred, the low level waste broker ships and disposes of the waste in accordance with applicable regulations for radioactive materials.

No spent (irradiated) fuel will be permanently stored within the NTR during the license renewal term. If it is necessary to remove a fuel assembly, it is transferred to the fuel loading tank and special arrangements are made to use a shielded transfer cask and storage facilities elsewhere on the site. The U.S. Department of Energy (DOE) provides fuel for use at the NTR. GE-Hitachi has entered into a contract with DOE whereby the DOE retains title to the fuel and is obligated to take all NTR spent nuclear fuel from the site for final disposition. GEH does not anticipate any changes in spent fuel handling during the proposed license renewal term.

As described in chapter 11, ''Radiation Protection Program/Waste Management,'' of the NTR SAR and verified through NRC staff review of the licensee's annual reports for the 5 years of operation from 2016 through 2020, personnel exposures are well within the limits set by 10 CFR 20.1201, ''Occupational dose limits for adults,'' and are as low as reasonably achievable in accordance with 10 CFR 20.1101(b). The licensee tracks exposures of personnel monitored with dosimeters, and the annual reports for the 5 years show that the personnel exposures (total effective dose equivalent) were usually less than one percent of the occupational limit of 5,000 mrem (50 mSv) per year. The greatest individual exposure (annual) over the last 5 years was 876 mrem (8.76 mSv). No changes in reactor operation that would lead to an increase in occupational dose are expected or proposed as a result of the proposed action.

The radiation monitoring systems associated with reactor operations at the NTR are provided and maintained as a means of ensuring compliance with radiation limits established under 10

CFR part 20. The monitoring systems consist of remote area monitors, continuous air monitor, portable radiation survey instruments, hand and foot counter, fixed air filters, and stack monitor system, as described in section 11.1.4, ''Radiation Monitoring and Surveying,'' of the SAR. The stack monitor system measures particulate and noble gases, respectively, that are exhausted through the NTR exhaust stack.

The licensee has an environmental radiation program that measures radiation exposure in and around the VNC facility. The environmental radiation monitoring program surveys groundwater, stream sediments, vegetation, storm water, direct gamma radiation, gaseous effluents (which includes 4 air monitoring stations and 20 gamma radiation monitoring locations).

The licensee also obtains water samples to ensure no releases into water pathways. The water samples are analyzed for gross alpha, beta, and tritium. Soil and vegetation samples are analyzed for gross beta and undergo gamma spectroscopy. These samples and dosimetry are analyzed and documented in the annual effluent and environmental reports. Review of the annual reports over the last 5 years of operation (2016 through 2021) shows no discernible radiological effect of NTR operations on the environment.

Based on the review of monitoring data for the period 2016 through 2021, the NRC staff concludes that operation of the NTR does not have any significant radiological impact on the surrounding environment. No changes in reactor operation that would affect offsite radiation levels are expected or proposed as a result of the proposed action. Therefore, the NRC staff finds that the proposed action would not have a significant radiological impact.

Environmental Effects of Accidents

Accident scenarios are discussed in chapter 13, ''Accident Analysis,'' of the NTR SAR. The accidents analyzed in chapter 13 range from anticipated events to a postulated fission product release with radiological consequences that exceed those of any accident considered to be credible. The licensee considers a single-mode nonviolent failure of 50 mg of uranium-235 powder in a singly encapsulated container followed by release of fission products as the maximum hypothetical accident for the NTR. This accident would involve the release of material to the reactor cell area and into the environment with no credit taken for filtration of the release by the NTR stack filter system. The licensee uses this scenario to calculate the maximum concentration of fission products that might be present in the reactor cell. The licensee calculated doses to facility personnel during a 5 minute evacuation duration, and also calculated the dose to a member of the public outside the facility during the 2 hours it would take the released radioactive material to pass. The licensee estimated an occupational dose of 500 mrem (5 mSv), and a dose of 100 mrem (1 mSv) to the maximally-exposed member of the public.

Separate from this EA, the NRC staff is reviewing GE-Hitachi's accident analyses of the potential radiological consequences that may result from the proposed license renewal. The results of the NRC staff's safety review will be documented in a safety evaluation report that will be made publicly available. If the NRC staff concludes that the radiological consequences are within 10 CFR part 20 dose limits, then GE-Hitachi's accident analyses and the proposed action would not have a significant impact with respect to radiological consequences.

Conclusion—Radiological Impacts

In the application for license renewal, the licensee has not proposed any physical changes to the reactor facility design, or adverse changes to facility operating conditions, that would significantly affect facility operation; therefore, there would be no changes in the types or quantities of routine effluents that may be released off site. The licensee has systems in place for controlling the release of radiological effluents and implements a radiation protection program to monitor personnel exposures and releases of radioactive effluents. Accordingly, there would be no increase in routine occupational or public radiation exposure as a result of the proposed action. Based on the information previously discussed, the NRC staff finds that the proposed action will not significantly increase the probability and consequences of accidents.

The license renewal would not significantly change reactor operations. As previously discussed, information in the application and data reported to the NRC by the licensee for the last 5 years of reactor operation were evaluated to determine the radiological impact. The NRC staff found that releases of radioactive material and personnel exposures were all well within applicable regulatory limits. Based on this evaluation, the NRC staff finds that the continued operation of the reactor would have no significant radiological impacts.

Non-Radiological Impacts

The proposed action does not involve any change in the operation of the reactor or change in the emissions or heat load dissipated to the environment. No new construction or other land disturbing activities are proposed. The proposed action would not result in any land use changes or increase in noise or air emissions, and would not have a significant impact on air quality, noise, visual resources, or ecological resources.

Monitoring results of surface and ground water among other media are reported according to NTR and other site licensing requirements. Treated sanitary and industrial wastewater was disposed of onsite by an irrigation system. No surface runoff of sanitary or industrial waste occurred. Groundwater was monitored for gross alpha, gross beta, Strontium (Sr)-90 and tritium. Review of the last 5 years of analytical results of collected groundwater samples (2016 through 2021), shows that the GE-Hitachi is in compliance with all license requirements issued by the NRC, and NTR operation has no discernible effect on groundwater quality.

GE-Hitachi uses three drainage systems at the VNC site: industrial, sanitary, and storm. The industrial (non-cooling contact water) and sanitary wastewater discharge nonradioactive effluent into any of the four 50,000-gallon (189,270-liter) retention basins located in the southwest corner of the site, which store the water for nonpotable purposes (*e.g.,* landscape watering). There have been no discharges to surface waters from these retention basins since July 2003. The industrial wastewater has been discharged directly through onsite irrigation while the sanitary wastewater is first processed (for example through chlorination) and then sprayed onto VNC property by an irrigation system in a designated area. The storm water at the facility drains through a series of essentially natural ditches that merge before exiting the southwest corner of the site and emptying into Vallecitos Creek.

Groundwater level at the VNC site varies greatly, ranging from a few feet below ground surface (near Retention Basins 2 and 3) to 30 to 40 feet (9.1–12.2 m) below ground surface (northwest of the road leading to the water tank). Groundwater at the site generally flows toward the southwest at an estimated velocity of about 0.01 ft/day (.003 m/day) (in clays) to 8 ft/day (2.4 m/day) (in gravels) depending on the clay content.

GE-Hitachi conducts effluent monitoring and environmental

surveillance programs to ensure compliance with effluent release limits as described in in 10 CFR part 20, appendix B, ''Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage,'' and to monitor any potential impacts on the environments around the VNC facilities. The effluent monitoring program includes measuring gross alpha and gross beta particle activity in water discharged through the site sanitary and industrial wastewater systems, as well as measuring tritium levels in sanitary wastewater. The environmental surveillance program monitors gross alpha and gross beta in sediments from neighboring streams, groundwater, and vegetation at locations near or beyond the site perimeter and monitoring Cobalt (Co)-60 and Cesuim (Cs)-137 in stream sediment.

Recent records from the facility's effluent monitoring program show that in monthly testing of industrial effluent, gross alpha varied from nondetectable to 4.96 picoCuries per liter (pCi/L), and gross beta from 0.79 pCi/L to 6.14 pCi/L. In 2021, tritium was detected from 24 pCi/L to 633 pCi/L in the industrial effluent. Compared to industrial effluents, monthly testing of sanitary effluents generally showed lower levels of radioactivity. In 2021, the highest concentrations of gross alpha measured in sanitary effluent was 3.71 pCi/L, gross beta was 5.39 pCi/L, and tritium was 485 pCi/L. As part of the environmental surveillance program, the facility tests stream sediment at locations near or beyond the site perimeter. In 2021 testing of stream sediment, gross alpha was detected at 4.73 Ci/L, gross beta at 1.6 pCi/L, and both Co-60 and Cs-137 were not detected.

GE-Hitachi monitors groundwater at the VNC site quarterly by collecting from eight wells located on or near the VNC site. The samples are analyzed for gross alpha, gross beta, tritium, and Sr-90. In 2021, the highest levels of gross alpha and gross beta detected were 6.51 pCi/L and 4 pCi/L, respectively. In 2021, the highest level of tritium detected in the groundwater was 857 pCi/L.

In summary, effluent discharges from the VNC site comply with the facility's industrial and sanitary wastewater discharge limits as described in licenses issued by the NRC and the California Department of Health. No direct surface runoff of processed sanitary or industrial wastewater occurred in 2021. The impacts of the continued operation of the NTR on surface water and groundwater are minimal. Hazardous chemicals may be used in experiments at the NTR, but no releases of potentially hazardous chemicals to the environment occur during normal facility operation. Therefore, the NRC staff concludes that the proposed action would have no significant non-radiological impacts.

Other Applicable Environmental Laws

In addition to the National Environmental Policy Act, which requires Federal agencies to consider the environmental impacts of proposed actions, the NRC has responsibilities that are derived from other environmental laws, which include the Endangered Species Act (ESA), Coastal Zone Management Act (CZMA), Fish and Wildlife Coordination Act (FWCA), National Historic Preservation Act (NHPA), and Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' The following presents a brief discussion of impacts associated with resources protected by these laws and related requirements.

Endangered Species Act

The ESA was enacted to prevent further decline of endangered and threatened species and to restore those species and their critical habitat. Section 7 of the ESA requires Federal agencies to consult with the U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service regarding actions that may affect listed species or designated critical habitats. The NRC staff conducted a search of federally listed species and critical habitats that have the potential to occur in the vicinity of the NTR using the FWS's Environmental Conservation Online System Information for Planning and Conservation system.

The FWS-generated report from this system identifies nine federally listed species that occur or potentially occur within the vicinity of the VNC site: San Joaquin kit fox (Vulpes macrotis mutica), California least tern (Sterna antillarum browni), Alameda whipsnake (Masticophis lateralis euryxanthus), California red-legged frog (Rana draytonii), California tiger salamander (Ambrystoma californiense), delta smelt (Hypomesus transpacificus), bay checkerspot butterfly (Euphydryas editha bayensis), San Bruno elfin butterfly (Callophrys mossii bayensis), and vernal pool fairy shrimp (Branchinecta lynchi). No critical habitats occur in the area.

The VNC site lacks suitable aquatic features for the California red-legged frog, California tiger salamander, delta smelt, and vernal pool fairy shrimp. While the remaining species may be present in the broader area, the VNC site itself is small and developed and does not provide suitable habitat. Additionally, operation of the NTR has no direct nexus to the natural environment that could affect these species. Accordingly, the NRC staff concludes that the proposed license renewal of NTR would have no effect on federally listed species or critical habitats. Federal agencies are not required to consult with the FWS if they determine that an action will not affect listed species or critical habitats. Thus, the ESA does not require consultation for the proposed NTR license renewal, and the NRC staff considers its obligations under ESA section 7 to be fulfilled for the proposed action.

Coastal Zone Management Act

The CZMA, in part, encourages States to preserve, protect, develop, and, where possible, restore coastal resources. Individual States are responsible for developing a federally approved Coastal Management Plan and implementing a coastal management program in accordance with such a plan. Section 307(c)(3)(A) of the CZMA requires that applicants for Federal permits whose proposed activities could reasonably affect coastal zones certify to the licensing agency (here, the NRC) that the proposed activity would be consistent with the state's coastal management program. Alameda County is not within California's approved coastal zone, and, therefore, a consistency determination is not required for the proposed action.

Fish and Wildlife Coordination Act

The FWCA requires Federal agencies that license water resource development projects to consult with the FWS (or National Marine Fisheries Service, when applicable) and the State wildlife resource agencies regarding the potential impacts of the project on fish and wildlife resources.

The proposed action does not involve any water resource development projects, including any of the modifications relating to impounding a body of water, damming, diverting a stream or river, deepening a channel, irrigation, or altering a body of water for navigation or drainage. Therefore, no coordination with other agencies pursuant to the FWCA is required for the proposed action.

National Historic Preservation Act

The NHPA requires Federal agencies to consider the effects of their undertakings on historic properties. As stated in the NHPA, historic properties are any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places. By electronic mail dated November 21, 2022, the State Historic Preservation Officer (SHPO) for the State of California, indicated that the proposed renewal of the NTR license does not require construction, ground disturbing activities, or changes to the reactor facility design. The SHPO also indicated that no historic properties existed in the area of potential effects (which includes the VNC site); and, there were no objections to the proposed license renewal. Based on this information, the NRC staff finds that the proposed license renewal and the continued operation of the NTR would have no adverse effect on historic properties.

Executive Order 12898—Environmental Justice

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' dated February 16, 1994 (59 FR 7629), directs Federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law.

The environmental justice impact analysis evaluates the potential for disproportionately high and adverse human health and environmental effects on minority and low-income populations that could result from the relicensing and the continued operation of the reactor. Such effects may include human health, biological, cultural, economic, or social impacts. Minority and low-income populations are subsets of the general public residing around the reactor, and all are exposed to the same health and environmental effects generated from activities at the reactor.

Minority Populations in the Vicinity of the NTR—According to the U.S. Census Bureau's 2010 Census data, approximately 56 percent of the population (approximately 372,000 individuals) residing within a 10-mi (16-km) radius of the NTR identified themselves as minorities. The largest minority population were Asian or Pacific Islander (approximately 121,000 individuals or 33 percent) followed by Hispanic or Latino of any race (approximately 57,000 individuals or 16 percent). According to the 2010 Census, 66 percent of the Alameda County population identified themselves as minorities with persons of Asian or Pacific Islander (31 percent), Hispanic or Latino of any race (23 percent), and Black or African American (14 percent) comprising the largest minority populations. According to the 2020 Census, 71 percent of the Alameda County population identified themselves as minorities with persons of Asian or Pacific Islander (35 percent), Hispanic or Latino of any race (22 percent), and Black or African American (11 percent) comprising the largest minority populations.

Low-income Populations in the Vicinity of the NTR—According to the U.S. Census Bureau's 2017–2021 American Community Survey 5-Year Estimates, approximately 19,300 persons and 3,340 families (approximately 5 and 3 percent, respectively) residing within a 10-mile (16-km) radius of the NTR were identified as living below the Federal poverty threshold. The 2021 Federal poverty threshold was $27,949 for a family of four. According to the U.S. Census Bureau's 2021 American Community Survey Census 1-Year Estimates, the median household income for the State of California was $84,907 while approximately 9 percent of families and 12.3 percent the State population were found to be living below the Federal poverty threshold. Alameda County had a higher median household income average ($109,729) and a lower percentage of families (6.1 percent) and persons (9.3 percent) living below the poverty level.

Impact Analysis—Potential impacts to minority and low-income populations would mostly consist of radiological effects. However, radiation doses from continued operations associated with the proposed license renewal are expected to continue at current levels, and would be below regulatory limits. No significant visual or noise impacts are expected to result from the proposed action. Based on this information and the analysis of human health and environmental impacts in this EA, the NRC staff finds that the proposed license renewal would not have disproportionately high and adverse human health and environmental effects on minority and low-income populations residing in the vicinity of the NTR.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to license renewal, the NRC considered denying the proposed action (*i.e.,* the ''no-action'' alternative). If the NRC denied the request for license renewal, reactor operations would cease and decommissioning would commence sooner than if the NRC issued a renewed license. Therefore, the environmental effects of decommissioning would occur sooner under the no-action alternative than if a renewed license were issued. Decommissioning would be conducted in accordance with an NRC-approved decommissioning plan, which would require a separate environmental review under 10 CFR 51.21. Cessation of reactor operations would reduce or eliminate radioactive effluents. However, as previously discussed in this EA, radioactive effluents from reactor operations constitute a small fraction of the applicable regulatory limits. Therefore, the environmental impacts of license renewal and the denial of the request for license renewal would be similar. In addition, denying the request for license renewal would eliminate the benefits of teaching, research, and services provided by the NTR.

Alternative Use of Resources

The proposed license renewal does not involve the use of any different resources or significant quantities of resources beyond those associated with current facility operations and previously considered in the issuance of Facility License No. R–33 for the reactor on December 28, 1984, and the renewal of Facility License No. R–33 on December 28, 1984, and April 20, 2001.

Agencies and Persons Consulted

In satisfaction of its obligations under the NHPA, the NRC consulted with the California SHPO, as previously described. On February 21, 2023, the NRC notified the California State official, Mr. Anthony Chu, Chief, Division of Radiation Safety and Environmental Management, California Department of Public Health of the proposed action. By email dated March 8, 2023, Mr. Chu indicated that the State of California Department of Public had no comments.

Finding of No Significant Impact

The NRC is considering renewal of Facility License No. R–33, held by GE-Hitachi, which would authorize the continued operation of the NTR for an additional 20 years from the date of issuance of the renewed license.

On the basis of the EA included in Section II of this notice and incorporated by reference in this finding, the NRC staff finds that the proposed action will not have a significant impact on the quality of the human environment, and will not

significantly affect the environment surrounding the NTR. This is because the proposed action will result in no significant radiological impacts from continued operations as the types or quantities of effluents that may be released off site would not change. No changes in land use would occur or increases in noise or air emissions. Continued operations under the proposed action would have no significant impacts on air quality, noise, visual resources, surface water or groundwater resources, terrestrial or aquatic resources, or on any other environmental resource conditions. Additionally, the proposed action would have no effect on federally listed species or designated critical habitats, would not affect historic properties, and would not result in environmental justice impacts. Therefore, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC staff has determined that there is no need to prepare an environmental impact statement for the proposed action.

The NRC staff considered information provided in the licensee's application, as supplemented, and the review of related environmental documents. Section III in this notice lists the environmental documents related to the proposed action and includes information on the availability of these documents.

This FONSI and other related environmental documents are accessible online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

III. Availability of Documents

The documents in the following table are available to interested in ADAMS, as indicated.

Document description	ADAMS accession No.
License Renewal Request	
GE-Hitachi Nuclear Energy, application cover letter, ''Nuclear Test Reactor License Renewal (R–33),'' (Redacted), dated November 19, 2020.	ML21053A071.
GE-Hitachi Nuclear Energy, ''General Electric Nuclear Test Reactor Safety Analysis Report,'' NEDO 32740P, Rev 3, chapters 1 through 8, dated November 19, 2020.	ML20325A205.
GE-Hitachi Nuclear Energy, ''General Electric Nuclear Test Reactor Safety Analysis Report,'' NEDO 32740P, Rev 3, chapters 9 through 16, dated November 19, 2020.	ML20325A206.
GE-Hitachi Nuclear Energy, ''Vallecitos Nuclear Center Environmental Report 2020,'' dated July 2020	ML20325A195.
Supplemental Information Supporting GE Nuclear Test Reactor License Renewal Audit Questions and Responses, dated September 22, 2021.	ML21265A246 (package).
GE-Hitachi Nuclear Energy Americas, LLC, ''Response to Request for Additional Information for GE Nuclear Test Reactor License Renewal Application,'' dated April 22, 2022.	ML22112A237.
GE-Hitachi Nuclear Energy, ''Response to Request for Public Docketing of Information Relating to GE Nuclear Test Reactor License Renewal,'' dated September 15, 2022.	ML22258A117 (package).
GE-Hitachi Nuclear Energy Americas, LLC, ''Supplemental Information Supporting GE Nuclear Test Reactor License Renewal Audit,'' dated January 27, 2023.	ML23027A210.
GE-Hitachi Nuclear Energy, ''GEH Annual Nuclear Test Reactor (NTR) Operating Report for the Year''	2020—ML21088A323. 2019—ML20234A326. 2018—ML19081A042. 2017—ML18108A251. 2016—ML17095A289.
Other Referenced Document	
Email from the State of California, State Historic Preservation Officer, dated November 21, 2022	ML22325A353.
Email from the State of California, Division of Radiation Safety and Environmental Management California Department of Public Health, dated March 8, 2023.	ML23067A408.

Dated: March 17, 2023.

For the Nuclear Regulatory Commission.

Joshua M. Borromeo,

Chief, Non-Power Production and Utilization Facility Licensing Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–05876 Filed 3–21–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0053]

Information Collection: Suspicious Activity Reporting Using the Protective Web Server

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Suspicious Activity Reporting Using the Protective Web Server.''

DATES: Submit comments by May 22, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0053. 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.

• *Mail comments to:* David C. Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0053 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0053.

• *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML23048A096. The supporting statement is available in ADAMS under Accession No. ML23048A088.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2023–0053, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Suspicious Activity Reporting Using the Protective Web Server.
2. *OMB approval number:* 3150–0219.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Reporting is done on a voluntary basis, as suspicious incidents occur.
6. *Who will be required or asked to respond:* NRC license holders and applicants that are not required by regulation to report suspicious activity can voluntarily provide security reports as a result of various advisories that the NRC issues. NRC licensed entities that may voluntarily send reports include applicants for title 10 of the *Code of Federal Regulations* (10 CFR) part 50 license, holders of construction permit under 10 CFR part 50, applicants for 10 CFR part 52 license, fuel fabrication facilities, uranium conversion/deconversion facilities, and holders of certificates of compliance under 10 CFR part 72.
7. *The estimated number of annual responses:* 78.
8. *The estimated number of annual respondents:* 52.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 58.5.
10. *Abstract:* NRC licensees voluntarily report information on suspicious incidents on an ad-hoc basis, as these incidents occur. This information is shared with authorized nuclear industry officials and Federal, State, and local government agencies using the Protected Web Server. Information provided by licensees is considered OFFICIAL USE ONLY and is not made public.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.
2. Is the estimate of the burden of the information collection accurate? Please explain your answer.
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: March 17, 2023.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2023–05879 Filed 3–21–23; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–119 and CP2023–122; MC2023–120 and CP2023–123; MC2023–121 and CP2023–124]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 24, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–119 and CP2023–122; *Filing Title:* USPS Request to Add Priority Mail Contract 775 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 16, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Arif Hafiz; *Comments Due:* March 24, 2023.

2. *Docket No(s).:* MC2023–120 and CP2023–123; *Filing Title:* USPS Request to Add First-Class Package Service & Parcel Select Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 16, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* March 24, 2023.

3. *Docket No(s).:* MC2023–121 and CP2023–124; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 136 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 16, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 24, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–05849 Filed 3–21–23; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail and Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 6, 2023, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & Parcel Select Contract 9 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–117, CP2023–120.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–05809 Filed 3–21–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 16, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 136 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–121, CP2023–124.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–05814 Filed 3–21–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 16, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 775 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–119, CP2023–122.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–05810 Filed 3–21–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service & Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 16, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add First-Class Package Service & Parcel Select Service Contract 2 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–120, CP2022–123.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–05813 Filed 3–21–23; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34859; File No. 812–15406]

Pender Real Estate Credit Fund and Pender Capital Management, LLC

March 16, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c), and 18(i) of the Act, pursuant to sections 6(c) and 23(c) of the Act for certain exemptions from rule 23c–3 under the Act, and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose early withdrawal charges and asset-based distribution and/or service fees.

Applicants: Pender Real Estate Credit Fund and Pender Capital Management, LLC.

Filing Dates: The application was filed on November 8, 2022, and amended on January 6, 2023 and January 30, 2023.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below.

Hearing requests should be received by the Commission by 5:30 p.m. on April 10, 2023, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Joshua B. Deringer, *joshua.deringer@faegredrinker.com,* Veena K. Jain, *veena.jain@faegredrinker.com,* and Cory Johnson, *cory.johnson@pendercapital.com.*

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Senior Counsel, or Terri G. Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' second amended and restated application, dated January 30, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–05801 Filed 3–21–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Delegation of Authority No. 539]

Delegation of Authorities; Secure Embassy Construction and Counterterrorism Act

1. By virtue of the authority vested in the Secretary of State by the laws of the United States, including by section 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a(a)(4)), to the extent authorized by law and subject to the conditions in paragraph 2 below, I hereby delegate to the Under Secretary of State for Management the authority to issue waivers for chanceries and consulates under section 606(a)(3)(B) of the Secure Embassy Construction and Counterterrorism Act (SECCA) of 1999, Public Law 106–113, as amended by section 9301 of the SECCA of 2022 (Div. I, Title XCIII, Public Law 117–263). I further delegate to the Under Secretary

of State for Management the authority to notify the appropriate congressional committees of any such waiver and to submit to appropriate congressional committees reports under the same sections of the SECCA of 1999.

2. There will be a notification to Congress at least two days prior to any waiver's implementation. This delegation of authority shall not apply to posts designated as High Threat/High Risk posts consistent with section 104 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4803).

3. The functions delegated herein may be exercised by the Secretary, the Deputy Secretary, and the Deputy Secretary for Management and Resources. This delegation does not modify any other delegation currently in force.

4. This delegation of authority will be published in the **Federal Register**.

Dated: February 27, 2023.

Antony Blinken,

Secretary of State.

[FR Doc. 2023–05900 Filed 3–21–23; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed highway project, on State Route (SR 37) between postmiles 2.9–6.2 in Sonoma County, postmiles 0.0–R7.4 in Solano County, and postmiles 0.0–0.2 in Napa County, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 21, 2023. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Maxwell Lammert, Office Chief, California Department of Transportation, 111 Grand Avenue, MS–8B, Oakland, CA 94612. Office hours: Monday through Friday 8 a.m.–5 p.m. Contact Information: *Maxwell.Lammert@dot.ca.gov* and (510) 506–9862.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration assigned, and the California Department of Transportation assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans, in partnership with the Metropolitan Transportation Commission (MTC) and the north bay partner agencies of Sonoma County Transportation Authority (SCTA), Solano Transportation Authority (STA), and Napa Valley Transportation Authority (NVTA), proposes the Sears Point to Mare Island Improvement Project to address existing recurring congestion along State Route (SR) 37 where the highway narrows to one lane in each direction between SR 121 and the Mare Island Interchange (approximately 10 miles). The selected alternative will widen SR 37 to provide four full-time lanes (two in each direction), widen the Tolay Creek Bridge, widen the Sonoma Creek Bridge, and provide 8-foot shoulders (except at Sonoma Creek Bridge which would have 4-foot shoulders). In each direction of SR 37 in the project limits, the existing lane would be converted to full-time High Occupancy Vehicle (HOV) lanes and the newly added lanes would be toll lanes. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA) and Finding of No Significant Impact (FONSI), approved on February 8, 2023 and in other documents in the Caltrans project records. The FEA, FONSI, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FEA and FONSI can be viewed and downloaded from the project website at *https://dot.ca.gov/caltrans-near-me/district-4/d4-popular-links/d4-environmental-docs#district-wide.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act (NEPA) of 1969 [42 U.S.C. 4321–4351]
3. Federal-Aid Highway Act of 1970 [23 U.S.C. 109 and 23 U.S.C. 128]
4. Clean Air Act Amendments of 1990 (CAAA) [42 U.S.C. 7401–7671(q)]
5. Clean Water Act of 1977 and 1987 (Section 404 and Section 401)
6. Section 106 of the National Historic Preservation Act of 1966, as amended
7. Historic Sites Act of 1935
8. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
9. Paleontological Resources Preservation Act of 2009 (PRPA)
10. Antiquities Act [54 U.S.C. 320301–320303]
11. Noise Control Act of 1972
12. Safe Drinking Water Act of 1944, as amended
13. Toxic Substances Control Act
14. Comprehensive Environmental Response, Compensation and Liability Act
15. Resource Conservation and Recovery Act (RCRA) of 1976
16. Endangered Species Act of 1973
17. Executive Order 11990, Protection of Wetlands
18. Executive Order 13112, Invasive Species
19. Executive Order 13186, Migratory Birds
20. Fish and Wildlife Coordination Act of 1934, as amended
21. Migratory Bird Treaty Act
22. Marine Mammal Protection Act
23. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
24. Wildflowers, Surface Transportation & Uniform Relocation Act of 1987 Section 130
25. Coastal Zone Management Act of 1972 (CZMA)
26. Coastal Zone Management Act Reauthorization Amendments of 1990
27. Executive Order 11988, Floodplain Management
28. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
29. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
30. Title VI of the Civil Rights Act of 1964, as amended
31. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372

regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1))

Dated: March 16, 2023.

Antonio Johnson,

Director, Planning, Environment, and Right of Way, Federal Highway Administration, California Division.

[FR Doc. 2023–05830 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0017]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 10 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on March 22, 2023. The exemptions expire on March 22, 2025.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2023–0017) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

On February 13, 2023, FMCSA published a notice announcing receipt of applications from 10 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (88 FR 9314). The public comment period ended on March 15, 2023, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. However, FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on relevant scientific information and literature, and the 2008 Evidence Report, ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety.'' The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System, for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety would likely be achieved by permitting each of these drivers to drive in interstate commerce, the Agency finds the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds further that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) would likely achieve a level of safety equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document

and include the following: (1) each driver must report any crashes or accidents as defined in § 390.5T; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 10 exemption applications, FMCSA exempts the following drivers from the hearing standard; in § 391.41(b)(11), subject to the requirements cited above:

Albert Arzola (VA)

Alexander Chaykin (CA)

Henry Cisneros (OH)

Russell Dukes (CA)

Michael Lua-Morales (PA)

James Luthro (TX)

Francisco Mejia (TX)

Joseph Nelson (CO)

Amber Porter (WI)

Rajbir Shokar (CA)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–05854 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0018]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 10 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before April 21, 2023.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2023–0018 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2023–0018) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2023–0018), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA-023-0028.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2023–0018) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal

information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 10 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, ''Qualification of Drivers; Application for Exemptions; National Association of the Deaf,'' (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

III. Qualifications of Applicants

Amin Ali

Amin Ali, 21, holds a class D driver's license in Ohio.

Guled Ali

Guled Ali, 22, holds a class D driver's license in Ohio.

Joey Dickinson

Joey Dickinson, 36, holds a class D driver's license in Tennessee.

Samantha Gatpo

Samantha Gatpo, 26, holds a class D driver's license in California.

Freddy Lopez Hernandez

Freddy Lopez Hernandez, 30, holds a class C driver's license in Texas.

Shane Rowland

Shane Rowland, 35, holds a class C driver's license in Texas.

Timothy Smith

Timothy Smith, 28, holds a class A commercial driver's license (CDL) in Virginia.

Daniel Vollertsen

Daniel Vollertsen, 35, holds a class D driver's license in New York.

Martin Vorpahl

Martin Vorpahl, 49, holds a class ABCDM CDL in Wisconsin.

Irven Wade

Irven Wade, 49, holds a class CM driver's license in Nevada.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–05855 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0030]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 11 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before April 21, 2023.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2023–0030 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2023–0030) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224,

Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2023–0030), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA-2023-0030.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2023–0030) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 11 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication, and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, ''Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders,'' (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Keith Dohrmann

Keith Dohrmann is a 38-year-old class D license holder in Minnesota. They have a history of epilepsy and have been seizure free since January 2012. They take anti-seizure medication with the dosage and frequency remaining the same since October 2018. Their physician states that they are supportive of Keith Dohrmann receiving an exemption.

Wallace Ferguson

Wallace Ferguson is a 61-year-old class R license holder in Colorado. They have a history of partial onset epilepsy and have been seizure free since 2011. They take anti-seizure medication with the dosage and frequency remaining the same since 2012. Their physician states that they are supportive of Wallace Ferguson receiving an exemption.

Derek Jazdzewski

Derek Jazdzewski is a 33-year-old class D license holder in Wisconsin. They have a history of seizure disorder and have been seizure free since September 2013. They take anti-seizure medication with the dosage and frequency remaining the same since 2016. Their physician states that they are supportive of Derek Jazdzewski receiving an exemption.

Charles E. Johnson

Charles E. Johnson is a 47-year-old class A license holder in Kansas. They have a history of non-intractable absence epilepsy and have been seizure free since 2011. They take anti-seizure medication with the dosage and frequency remaining the same since 2015. Their physician states that they are supportive of Charles E. Johnson receiving an exemption.

Michael Littleton

Michael Littleton is a 47-year-old class R license holder in Colorado. They have a history of epilepsy and have been seizure free since January 2014. They take anti-seizure medication with the dosage and frequency remaining the same since January 2014. Their physician states that they are supportive of Michael Littleton receiving an exemption.

Robert Newhand

Robert Newhand is a 32-year-old class D license holder in New York. They have a history of partial symptomatic epilepsy and have been seizure free since 2015. They take anti-seizure medication with the dosage and frequency remaining the same since 2015. Their physician states that they are supportive of Robert Newhand receiving an exemption.

Kristopher Pettitt

Kristopher Pettitt is a 42-year-old class C license holder in California. They have a history of epilepsy and have been seizure free since November 2011. They take anti-seizure medication with the dosage and frequency remaining the same since 2011. Their physician states that they are supportive of Kristopher Pettitt receiving an exemption.

Taylor Ramey

Taylor Ramey is a 32-year-old class C license holder in Texas. They have a history of epilepsy and have been seizure free since 2013. They take anti-seizure medication with the dosage and frequency remaining the same since May 2013. Their physician states that they are supportive of Taylor Ramey receiving an exemption.

Herbert Spike

Herbert Spike is a 49-year-old class D license holder in Connecticut. They have a history of generalized epilepsy and have been seizure free since 2009. They take anti-seizure medication with the dosage and frequency remaining the same since 2014. Their physician states that they are supportive of Herbert Spike receiving an exemption.

Scott Stone

Scott Stone is a 50-year-old class BM commercial driver's license holder in Wyoming. They have a history of epilepsy and have been seizure free since 2004. They take anti-seizure medication with the dosage and frequency remaining the same since 2004. Their physician states that they are supportive of Scott Stone receiving an exemption.

Andrew Toler

Andrew Toler is a 33-year-old class D license holder in Virginia. They have a history of a single unprovoked seizure and have been seizure free since 2012. They have not taken anti-seizure medication. Their physician states that they are supportive of Andrew Toler receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–05853 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2022–0084]

Advancing High-Speed Rail Projects Intended for Operations Over 160 Miles Per Hour Through Domestic Sourcing Plans and Buy America Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Federal Railroad Administration (FRA) is issuing this notice to encourage development of high-speed rail (HSR) system projects intended for operations over 160 miles per hour by establishing a streamlined process for reviewing domestic sourcing and workforce plans. Specifically, this notice summarizes FRA's intent to invite HSR project sponsors to voluntarily submit for review, in advance of receipt of DOT funding, their domestic sourcing and workforce plans. This notice provides further clarification to the December 7, 2022, Notice of Funding Opportunity for the Federal-State Partnership for Intercity Passenger Rail Program, which stated that FRA expects all applicants to comply with Buy America requirements without needing a waiver. However, to obtain a waiver, an applicant must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

If an applicant anticipates it may need a waiver, the applicant should indicate the need in its application and submit materials necessary for such requests together with its application. This notice provides further detail on the recommended content of these materials. This notice also serves as an RFI to assist with planning a U.S. domestic content High Speed Rail Industry Exchange Day (Industry Day).

DATES: Applicable on March 22, 2023.

ADDRESSES: Comments should refer to docket number FRA–2022–0084 and be submitted at *https://www.regulations.gov.* Search by using

the docket number and follow the instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number (FRA–2022–0084) for this Notice and subsequent RFI to assist with planning a U.S. domestic content High Speed Rail Industry Exchange Day.

Note: All comments received, including any personal information, will be posted without change to the docket and will be accessible to the public at *https://www.regulations.gov.* You should not include information in your comment that you do not want to be made public. Input submitted online via *https://www.regulations.gov* is not immediately posted to the site. It may take several business days before your submission is posted.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. David Valenstein, Office of Railroad Development, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–314, Washington, DC 20590; email: *david.valenstein@dot.gov;* 202–493–6368; Mr. Ryan Arbuckle, Office of Rail Program Development, Federal Railroad Administration, email: *ryan.arbuckle@dot.gov;* 202–617–0212; Mr. John Johnson, Office of Chief Counsel, 1200 New Jersey Avenue SE, Room W31–208, Washington, DC 20590; email: *john.johnson@dot.gov;* 202–384–2421.

SUPPLEMENTARY INFORMATION: FRA is inviting sponsors of high-speed, steel wheel on steel rail electrically powered passenger railroad projects intended for operations over 160 miles per hour to voluntarily submit for review their domestic sourcing and workforce plans associated with FRA's Buy America requirements [1] under 49 U.S.C. 22905(a) and section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. 117–58). Project sponsors may begin working with FRA regarding the plans in connection with applying for federal financial assistance, including the Federal-State Partnership for Intercity Passenger Rail Program (FSP-National), Railroad Rehabilitation and Improvement Financing (RRIF), or other applicable USDOT programs. FRA recognizes that the domestic manufacturing ecosystem for high-speed rail will require investment and HSR project sponsors may plan to seek a waiver for certain goods, products, and materials used in safety- and performance-critical HSR technology systems (*e.g.,* track, power supply, train control, rolling stock). Typically, project sponsors wait until after their project has been selected for award before requesting potential Buy America waivers. However, the complexity and size of HSR projects necessitates aligning any waiver and associated implementation plan with application evaluation processes. In the FSP-National NOFO, FRA indicated that if an applicant to that program anticipates it may need a waiver, the applicant should indicate the need in its application and submit materials necessary for such requests with its application. FRA has followed a similar approach with certain RRIF applicants such that Buy America waivers have been considered early in the loan application process. This notice provides clarification on what materials should be submitted to support parallel review of a grant application and waiver request.

FRA's ''Buy America: Answers to Frequently Asked Questions'' (FAQs) describe FRA's procedures for applying Buy America, including issuing waivers, to programs such as FSP-National and RRIF (*https://railroads.dot.gov/legislation-regulations/buy-america/buy-america-fras-high-speed-intercity-passenger-rail-program*). On January 25, 2021, President Biden signed Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers, to ensure that federal financial assistance awards maximize the use of goods, products, and materials produced in the United States. On April 18, 2022, the Office of Management and Budget issued Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure (M–22–11). This guidance states that to the greatest extent possible, waivers should be issued at the project level and be product specific. Also, the guidance encourages agencies to use the principles of time-limited, targeted, and conditional for any necessary waivers so that federal financial assistance drives increasing demand for production of domestically manufactured goods and products. In accordance with the Build America, Buy America Act, Executive Order, OMB Guidance, and FRA's FAQs, FRA will expect potential applicants to FRA- and USDOT-funded financial assistance programs to:

- Comply with Build America, Buy America Act and FRA Buy America requirements, including final assembly in the United States and appropriate domestic content thresholds.
- Maximize the use of domestically produced goods, products, and materials. Where domestically produced goods, products, and materials are not currently available in sufficient quantities or of an acceptable quality to meet demand, applicants are expected to provide robust evidence of non-availability or unreasonable cost.
- Prepare and implement a domestic sourcing plan for their HSR projects. The plan should describe how recipients will maximize the use of available domestic content, or, if such content does not currently exist, how they will work with suppliers to build production capacity and the plan should provide justification regarding the use of the imported goods, products, and materials. If a waiver is needed, the applicant should describe the associated implementation plan and expected timeline to reach full FRA Buy America and BABA compliance. The plan may include—
  - Detail on the extent to which HSR system goods, products, and materials are not available in the United States; the extent to which the goods, products, and materials for the HSR project can be sourced domestically; and the justification for imported items supported by robust evidence and analysis of industry supply relative to project demand.
  - An explanation of how the recipient anticipates meeting full FRA Buy America and BABA compliance.
  - An explanation of how the recipient anticipates using domestic sources for maintenance and replacement of initially imported goods and materials used in the project and/or how the recipient will scale domestic content over time by supporting new or expanded domestic production of initially imported goods and materials.
  - An explanation of how the applicant, and, if applicable, its domestic suppliers, plan to support the creation of high-quality American jobs consistent with Good Jobs Principles. The Department intends to use the HSR program to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs consistent with Executive Order 14025, Worker Organizing and Empowerment (86 FR 22829), and Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335). These provisions will be considered in conjunction with domestic sourcing plans so that, when taken together, the domestic sourcing and workforce plans present a commitment to create high-quality jobs for the communities in which the project will operate.

[1] Buy America requirements include both FRA Buy America requirements and Buy America, Build America requirements.

FRA acknowledges that domestic sourcing plans may contain material the submitter considers to be confidential commercial information or trade secrets (collectively, CCI), and not customarily released to the public. Project sponsors should indicate as such domestic sourcing plans they consider to be CCI and not customarily released to the public, and request that the information be protected from release. To the extent permitted by law, FRA will not release such information. FRA will handle subsequent Freedom of Information Act, 5 U.S.C. 552, requests for the information according to the regulatory process described at 49 CFR part 7.

Industry Day

High speed rail manufacturing, assembly, installation, and maintenance all have the potential to not only support policies on sustainability and climate, but also to create good-paying, union jobs in the United States. DOT is interested in hearing from the public, including stakeholders (such as State and local agencies, the rail manufacturing industry, component suppliers, labor unions, related associations, and transportation advocates), to gather information on manufacturing and assembly processes in the United States for high-speed rail.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–05874 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0063; Notice 2]

Daimler Trucks North America, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: Daimler Trucks North America, LLC (DTNA), has determined that certain model year (MY) 2020–2021 Freightliner Cascadia motor vehicles (heavy trucks) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* DTNA filed a noncompliance report dated May 12, 2020, and amended the report on December 23, 2021. DTNA subsequently petitioned NHTSA (the ''Agency'') on June 4, 2020, and later amended its petition on July 13, 2020, and again on January 19, 2022, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This notice announces the denial of DTNA's petition.

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, Office of Vehicle Safety Compliance, NHTSA, (202) 366–5304.

SUPPLEMENTARY INFORMATION:

I. Overview

DTNA has determined that certain MY 2020–2021 Freightliner Cascadia heavy trucks do not fully comply with the requirements of paragraphs S4, S6.1.5.1, S9.6.2, S14.9.3.9.3, and Figure 2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). DTNA filed a noncompliance report dated May 12, 2020, and amended the report on December 23, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* DTNA subsequently petitioned NHTSA on June 4, 2020, and later amended its petition on July 13, 2020,[1] and again on January 19, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that these noncompliances are inconsequential as they relate to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of DTNA's petition was published with a 30-day public comment period, on April 13, 2022, in the **Federal Register** (87 FR 22019). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2020–0063.''

II. Trucks Involved

Approximately 24,282 MY 2020–2021 Freightliner Cascadia heavy trucks manufactured between January 16, 2019, and March 27, 2020, are potentially involved.

III. Noncompliances

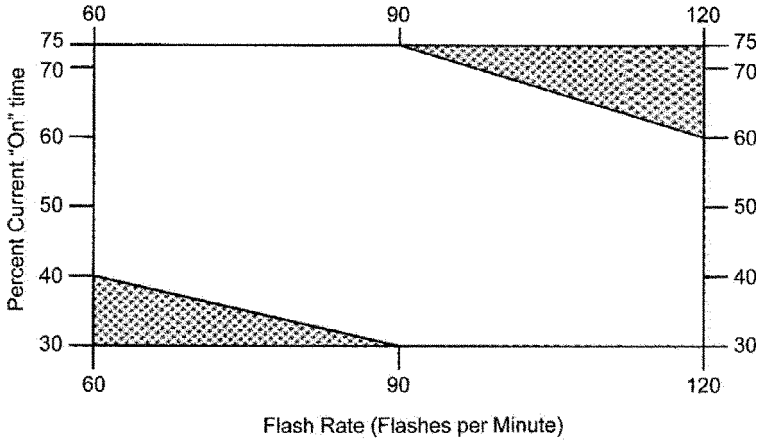
DTNA identified two noncompliances pertaining to the subject trucks' hazard warning signal lamps. First, the hazard warning signal lamps do not meet the flash rate required by paragraph S6.1.5.1 of FMVSS No. 108 under all operating conditions. Specifically, if a subject vehicle is operated at a speed of 20 miles per hour[2] (MPH) or more during the emergency braking (EB) phase of an Active Brake Assist (ABA) event, the subject trucks' hazard warning signal lamps are actuated at a flash rate of 140 flashes per minute when the flash rate should be between 60 and 120 flashes per minute. Second, the subject truck automatically activates the hazard warning signal lamps during certain operating conditions, specifically, when the subject truck has progressed to the third phase of an ABA event. Automatic activation of the hazard warning signal lamps is contrary to the definition of the ''vehicular hazard warning signal operating unit,'' which states it is a driver-controlled device.

IV. Rule Requirements

Paragraphs S4, S6.1.5.1, S9.6.2, S14.9.3.9.3, and Figure 2 of FMVSS No. 108 include the requirements relevant to this petition. Paragraph S4 defines the ''vehicular hazard warning signal operating unit'' as a driver-controlled device that causes all required turn signal lamps to flash simultaneously to indicate to approaching drivers the presence of a vehicular hazard. Paragraph S6.1.5.1 requires that ''[i]n all passenger cars, multipurpose passenger vehicles, trucks, and buses, the activation of the vehicular hazard warning signal operating unit must cause to flash simultaneously sufficient turn signal lamps to meet, as a minimum, the turn signal photometric requirements of this standard.'' Paragraph S9.6.2, in part, requires that the vehicular hazard warning signal operating unit must provide a means for actuating all switches simultaneously by a single driver action. Paragraph S14.9.3.9.3, in part, requires that the flash rate cannot exceed 120 flashes per minute under the conditions shown in Figure 2.

[1] DTNA initially amended its petition on July 13, 2022, and DTNA subsequently resubmitted that amended petition on July 22, 2022, due to an incorrect date on the top of the amended petition.

[2] DTNA's initial petition cited a number in kilometers per hour. However, documents that DTNA provided to NHTSA at later dates cited numbers in miles per hour and, therefore, the Agency uses miles per hour in this section. Regardless, the activation speed threshold was not a factor in NHTSA's decision since the activation in general was the concern.



FLASHER PERFORMANCE CHART

FIGURE 2

V. Summary of DTNA's Petition

The views and arguments presented in this section summarize the views and arguments provided by DTNA in its petition, including amendments. They do not reflect the views of the Agency. DTNA describes the subject noncompliances and states its belief that the noncompliances are inconsequential as they relate to motor vehicle safety.

A. Noncompliance With FMVSS No. 108's Flash Rate Requirement

DTNA identifies the three phases of an Active Brake Assist (ABA) event as follows: the Optic Acoustic Warning (OAW) phase, the Warn (Haptic) Braking (WB/HB) phase, and the EB phase. DTNA explains that the first phase—the OAW phase—warns the operator of a possible collision with a pop-up and audio alert only. The truck will then move into the second phase—the WB/HB phase—to assist the driver in mitigating a possible collision if the driver does not apply sufficient deceleration to the service brakes by applying 50 percent deceleration to the vehicle. DTNA further explains that ''[i]f the system deems it necessary,'' the ABA will start the third phase—the EB phase—which applies maximum braking force to assist the driver in bringing the truck to a complete halt. Additionally, DTNA states that the warning system only engages during this third phase, and, therefore, the third phase is the only time when the hazard warning signal lamps are automatically activated at a flash rate that exceeds the allowable limit.

DTNA provides background information, detailing the development of its ABA system,[3] which is not reiterated here. DTNA states that its findings show that an EB event is an extremely rare scenario that is visible only for a short period of time in only the rarest of extreme braking events, and the amount of time that drivers of other vehicles might notice this noncompliance is negligible. DTNA states that the average EB event lasts less than 1 second, and in millions of miles of recorded data, the longest EB event observed lasted less than 3 seconds. Therefore, DTNA concludes that the difference in number of blink cycles between the maximum permissible flash rate and emergency braking flash rate on the subject trucks is minimal.

With respect to the noncompliant flash rate, DTNA further contends that the flashing warning lights provide drivers of other vehicles with a safe indication of the aggressiveness of the braking. DTNA claims that NHTSA has previously found that under certain extreme braking events, flashing warning lights may be regarded as a safe indicator for rear signaling, citing a NHTSA study, which stated that ''a rear-signaling system that extinguishes somewhat after a vehicle comes to a complete stop should provide benefit by reducing a substantial percentage of collisions with stopped lead vehicles, while reducing annoyance caused by extended signaling after a vehicle is stopped. Data suggest this type of signal would address approximately 45 percent (10 out of 22) of stopped-lead-vehicle crashes.'' [4] DTNA notes that the Federal Motor Carrier Safety Administration (FMCSA) has granted an approval for hazmat hauler tanker trucks to use amber brake activated lights, following a 30-month study by Groendyke Transportation, which found that a pulsating amber brake light reduced rear-end collisions by roughly 34 percent.[5]

Additionally, DTNA says that NHTSA has previously granted petitions for noncompliances, similar to the subject noncompliant flash rate,[6] where those noncompliances only occur ''under specific and rare conditions,'' [7] and ''were granted for short duration of occurrence.'' [8]

DTNA states that it is not aware of any accidents, injuries, owner complaints or field reports in relation to the subject noncompliances.

[3] Details of DTNA's ABA development can be found in its petition at *https://www.regulations.gov/document/NHTSA-2020-0063-0002.*

[4] DTNA cites *Analyses of Rear-End Crashes and Near-Crashes in the 100-Car Naturalistic Driving Study to Support Rear-Signaling Countermeasure Development.* DOT HS 810 846 (October 2007).

[5] *See* Groendyke Transportation's application for exemption containing the 30-month study, FMCSA's decision and all associated documents at *https://www.regulations.gov/docket/FMCSA-2018-0223.*

[6] *See* General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance, 66 FR 32871 (June 18, 2001).

[7] *See* General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 83 FR 7847 (February 22, 2018) and *General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013).

[8] *See* Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 8151 (March 6, 2019), Maserati S.p.A and Maserati North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 1676 (January 13, 2016), and General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance, 61 FR 56734 (November 4, 1996).

B. Noncompliance Due to Automatic Activation of Hazard Warning Signal Lamps

On September 13, 2021,[9] NHTSA contacted DTNA to discuss the automatic activation of the hazard warning signal lamps. DTNA clarified that based on an analysis of prior Agency interpretations, it believed that the ''limited technical parameters and operating conditions under which the hazard warning lamps would activate'' did not constitute a noncompliance with FMVSS No. 108. NHTSA informed DTNA that the prior interpretations did not support DTNA's position because the subject trucks ''have not come to a complete stop at the time the hazard warning lamps activate.'' As a result, DTNA amended its original petition to include the automatic activation of the hazard warning signal lamps as a second noncompliance.

In the amended petition, DTNA contends that this second noncompliance is also inconsequential because the ''limited context in which the hazard lamps automatically activate ensures the message which the hazard warning lamps is communicating is clear and does not confuse other drivers about the meaning of the lamps.'' DTNA again explains the phases of its ABA system and says that if the driver does not disengage the ABA system, the system will apply the maximum braking force and cause the truck to come to a complete stop. When the EB is activated during the third and final phase, while the subject truck is traveling at 20 mph or more, ''the hazard warning lamps are automatically activated and flash at a rate of 140 Hz.'' Therefore, DTNA says, the automatic activation of the hazard warning signal lamps would not occur in stop and go traffic. DTNA notes that after the subject truck comes to a complete stop, the hazard warning lamps revert to a standard flash rate and ''the hazard warning signal operating unit can be manually engaged by the driver'' throughout the ABA event.

DTNA then contends that the automatic activation of the hazard warning signal lamps is consistent with two prior NHTSA interpretations in which DTNA argues that ''the agency has found automatic activation of the hazard warning signal operating unit to be appropriate in certain circumstances.'' Specifically, DTNA claims that NHTSA's November 18, 2016, interpretation letter to General Motors (GM)[10] supports DTNA's position. In that interpretation letter, DTNA says that NHTSA ''concluded that in the context of an adaptive cruise control system, automatic activation of the hazard warning lamps was consistent with FMVSS 108 if the human driver failed to respond to the system's requests to regain control of the vehicle.''

DTNA argues the automatic activation of hazard warning signal lamps is also consistent with the condition found in the interpretation letter to GM.[11] DTNA believes that SAE J910, January 1966 further supports this argument and quotes the section which states: ''A vehicular hazard warning signal operating unit is a driver controlled device which causes all turn signal lamps to flash simultaneously to indicate to the approaching drivers the presence of a vehicular hazard.'' In addition, DTNA states that an appropriate use of hazard warning lamps is ''to indicate that a vehicle is moving at a slower rate of speed than surrounding traffic'' and refers to NHTSA's interpretation letter to Senator Richard Lugar in support of this claim. Therefore, DTNA contends that the noncompliant automatic activation in the subject trucks ''is consistent with the type of message the hazard lamps are intended to convey.''[12]

DTNA concludes its petition by expressing its belief that the subject noncompliances are inconsequential as they relate to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliances, as required by 49 U.S.C. 30118, and a remedy for the noncompliances, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in an FMVSS is substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[13]

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.[14] In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.[15]

A. Noncompliance With FMVSS No. 108's Flash Rate Requirement

The Agency disagrees with DTNA that the increased flash rate during the AEB event is negligible. Rather, the Agency believes that the noncompliant flash rate is noticeable and concerning. Notably, the increase in flash rate would not occur if automatic activation of the hazard warning signal lamps were not present.

NHTSA disagrees with DTNA's assertion about the Agency's October 2007 study entitled ''Analyses of Rear-End Crashes and Near-Crashes . . . '' (DOT HS 810 846), which DTNA cites to argue that NHTSA has previously found that flashing warning lights under certain extreme braking events may be regarded as a safer indicator for rear signaling. NHTSA finds that the conclusions in the Agency's 2007 study do not support a finding that DTNA's noncompliance is inconsequential to vehicle safety for several reasons. First, DTNA's hazard warning signal lamps are not equivalent to the enhanced rear-lighting system referenced in the study. The study expressly pointed out that these enhanced concepts are intended to supplement rather than replace conventional rear signaling. Second, as explained in the study, the research was performed by an external party and it explicitly states that, ''the opinions, findings, and conclusions expressed in

[9] Daimler Trucks North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance (87 FR 22019) published on April 13, 2022, incorrectly stated that NHTSA contacted DTNA on September 13, 2022, when it should have stated that NHTSA contacted DTNA on September 13, 2021.

[10] *See* NHTSA's letter to Brian Latouf, Executive Director, GM (November 18, 2016) at *https://www.nhtsa.gov/interpretations/16-1289-gm-hazard-innovative-28-apr-16-rsy.*

[11] *Id.*

[12] *See* Letter to Sen. Richard Lugar (May 9, 2000) at *https://www.nhtsa.gov/interpretations/21478ztv.*

[13] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[14] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[15] *See Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016); *see also United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

this publication are those of the authors—and not necessarily those and do not represent opinions, findings, or conclusions of the U.S. Department of Transportation or the National Highway Traffic Safety Administration.'' [16] Therefore, even if the Agency agreed with DTNA about what this study says, the study would not serve as a justification for companies not to comply with a motor vehicle safety standard. Second, NHTSA considered this study in the context of DTNA's petition for inconsequential noncompliance, and the Agency determined that the study does not comprehensively address potential safety problems resulting from this noncompliance. For example, the research study did not evaluate whether rear signaling systems adversely affect vehicle safety. Additionally, the research study was not designed to examine all potential vehicle safety consequences caused by enhanced rear signaling systems.[17] Rather, the research study was limited to evaluating whether enhanced rear signaling systems effectively caught the attention of study participants and led to participants subsequently applying their vehicle's brakes. Moreover, the research study did not explore other factors which may include, but are not limited to, an enhanced rear signaling system's potential to draw attention away from all other vehicles, masking of lamps used by emergency vehicles, impact on drivers of adjacent vehicles, and potential to cause confusion. Third, while the 100-car naturalistic research study did provide justification for various deceleration criteria for enhanced rear-lighting systems, NHTSA believes additional research is required before the overall effectiveness of enhanced rear-lighting systems can be determined. Fourth, if, assuming arguendo, NHTSA were to conclude that rear-lighting systems are indeed effective, NHTSA would still need to promulgate a new regulation that adopts a standardized protocol for attention-getting lamps that indicate deceleration in lieu of or as a supplement to steady burning lamps, which NHTSA's vehicle safety standard currently requires. Finally, NHTSA has a longstanding position that standardized lighting during braking events is important to vehicle safety—and promoting non-standardized signaling would undermine that safety objective.

NHTSA also disagrees with DTNA's interpretation of Groendyke Transportation's 30-month study, which found that a ''pulsating amber brake light reduced rear-end collisions by roughly 34%.'' First, the lamps that formed the basis of Groendyke's petition were part of an additional brake-activated amber flashing auxiliary lamp—which is a different type of system than DTNA's subject system—and importantly, the vehicles on which they were installed retained the compliant steady-burning brake lamps. Second, NHTSA finds that the data generated by Groendyke's study is not statistically significant and there could be any number of exogenous factors as to why the number of rear-end collisions differ, which might not have anything to do with the installation of the pulsating amber brake light. Third, the data presented by Groendyke did not include detailed data on the types of crashes experienced by its fleet, which NHTSA would need in order to properly evaluate the effectiveness of Groendyke's additional lamps. Therefore, the results of this study are questionable and not applicable to other systems that modify the behavior of the required lamps, as is the case in the subject petition.

DTNA states that NHTSA has previously granted petitions for noncompliances similar to the noncompliant flash rate—where those noncompliances only occur ''under specific and rare conditions,'' and ''were granted for short duration of occurrence.'' However, the Agency is unable to properly address this assertion because DTNA did not provide any data that would quantify the rarity of the subject noncompliance. Nevertheless, we address each petition below in the order it was cited.

DTNA claims in its petition that the Agency's June 18, 2001, grant of a GM petition, 66 FR 32871, is an Agency decision that supports DTNA's petition. The Agency disagrees with DTNA and finds that the Agency's 2001 grant is irrelevant to both of DTNA's subject noncompliances. In that decision, the Agency determined that the brief single flash of the center high mounted stop lamp during the activation of the hazard warning signal lamps as not rising to the level of impairment that would detract or confuse other road users on the meaning of the hazard warning signal lamp. In contrast, DTNA's system may confuse other road users because it intentionally uses the hazard warning signal lamps to indicate braking which is a non-standard signal.

Next, DTNA refers to the Agency's February 22, 2018, grant of a GM petition, 83 FR 7847, as an Agency decision that supports DTNA's petition. The Agency again disagrees with DTNA because the noncompliance at issue in the Agency's 2018 decision is not comparable with DTNA's subject noncompliance due to a difference in the likelihood of an occurrence. For example, GM's subject noncompliance occurred under very limited and unusual circumstances, it was difficult to recreate in laboratory settings, and it was highly unlikely to occur under normal driving conditions.

DTNA provides three additional Agency decisions on inconsequentiality petitions [18] that the Agency believes are irrelevant to DTNA's petition. These three petitions are all related to various vehicle telltales (*e.g.,* passenger airbag telltale, electronic stability control telltale, and tire pressure monitoring system telltale), which are only visible to the occupants within the vehicle (*i.e.,* drivers of other vehicles do not see the warnings). The impact on other roadway users was not a primary consideration in evaluating those petitions, and therefore, NHTSA finds that the Agency's decisions on those petitions are not relevant to DTNA's petition.

Finally, DTNA offers the Agency's November 4, 1996, grant of a GM petition, which is also irrelevant to DTNA's petition. GM's petition concerned intermittent operation of the turn signal self-canceling feature, which caused the turn signal to continue to flash after the affected vehicles completed a turn. Consequently, NHTSA considered the impact on vehicle safety when an operator of an affected vehicle did not notice that the turn signal continued to flash. The Agency's decision on GM's petition is irrelevant because it concerned a vehicle that had an alternate system—a chime—which served to remind the operator to turn off the turn signal if the turn signal remained activated for more than half a mile. Overall, the facts in GM's petition are completely different from the subject petition and do not concern either the hazard warning signal lamps or the intentional activation of a non-standard signal.

B. Noncompliance Due to Automatic Activation of Hazard Warning Signal Lamps

NHTSA does not agree with DTNA's assertion that its hazard warning signal

[16] *Analyses of Rear-End Crashes and Near-Crashes in the 100-Car Naturalistic Driving Study to Support Rear-Signaling Countermeasure Development.* DOT HS 810 846 (October 2007). See Page 3 of the PDF here: *https://www.nhtsa.gov/sites/nhtsa.gov/files/analyses20of20rear-end20crashes20and20near-crashes20dot20hs2081020846.pdf.*

[17] Enhanced rear signaling systems is a term used throughout the report, DOT HS 810 846, to refer to experimental rear signaling systems.

[18] 78 FR 35355 (June 12, 2013), 84 FR 8151 (March 6, 2019), and 81 FR 1676 (January 13, 2016).

lamps are similar to GM's hazard warning signal lamps, which NHTSA discussed in an interpretation letter to GM.[19] The NHTSA interpretation letter that DTNA references pertains to GM's adaptive cruise control system (herein referred to as ''Super Cruise''). However, the differences between Super Cruise and DTNA's system are notable. For example, the Super Cruise hazard warning signal lamps only activate after the GM vehicles have come to a complete stop. In contrast, DTNA's system operates while vehicles are in motion on a roadway and traveling at various speeds. Another significant difference is that with respect to Super Cruise, the actions that a vehicle automatically takes only occur after the Super Cruise system determines that a driver is unable or unwilling to take control of the vehicle (*e.g.,* the driver is incapacitated or unresponsive). In contrast, video provided by DTNA appears to show that an affected truck may not have come to a complete stop during the ABA event, or taken evasive maneuvers—then the truck continued to move with traffic after the event concluded. Furthermore, it appeared that DTNA's system kept the hazard warning signal lamps activated—even after the Automatic Emergency Braking (AEB) event concluded and the operator of the truck maintained or increased the speed to match the flow of traffic.

While DTNA believes that this noncompliance is also inconsequential because the ''limited context in which the hazard lamps automatically activate ensures the message which the hazard warning lamps is communicating is clear and does not confuse other drivers about the meaning of the lamps,'' NHTSA disagrees. As NHTSA noted in the 2016 letter to GM, the purpose of the hazard warning is to indicate to approaching drivers that the vehicle is stopped or is proceeding at a slower rate than surrounding traffic. So, for example, we have opined that the hazard lights may be automatically activated following a crash [20] or once the vehicle is stopped in or near the roadway by a ''Super Cruise'' system after a human driver fails to respond [21] because in those situations there would be no ambiguity about the signal's meaning (that the vehicle is stopped).

On the other hand, we have expressly found that automatic activation of the hazard lights is not permitted to indicate a braking event, such as ''hard'' braking. For example, in a letter to Steele Enterprises, we opined that the hazards could not be automatically activated upon application of a vehicle's anti-lock brake system.[22] We affirmed this letter in our subsequent letter to Senator Lugar, which DTNA cited in its petition. There, we noted that the system at issue would automatically activate the vehicle's hazard warning system ''when a vehicle is rapidly braking.'' We opined that automatic activation of the hazard lamps was not permitted in this situation because it had the potential for confusing other motorists.[23]

DTNA's reliance on the letter to Senator Lugar is therefore misplaced. We disagree that the automatic activation in the subject trucks—when the truck is in motion to indicate an emergency braking event—is consistent with the type of message the hazard lamps are intended to convey. We also disagree that the hazard warning lamps remaining activated after the AEB event has concluded and the truck resumes in motion is permitted. Neither case represents the circumstances in which the hazard lights are customarily used. Moreover, because the truck's stop lamps (which are steady-burning) are activated in the second phase, activating the hazard lamps in the third phase, should the attached trailer be configured to have a combined stop lamp and turn signal lamp, would cause the stop lamps to flash. We believe both of these aspects of the warning activation, either separately or in combination, have the potential to confuse other motorists that follow an affected truck. Finally, while DTNA states that ''throughout the ABA event, the hazard warning signal operating unit can be manually engaged by the driver,'' NHTSA believes this is an irrelevant argument as DTNA's system automatically operates the hazard warning signal lamps even when it is not manually activated.

[19] *See* NHTSA's letter to Brian Latouf, Executive Director, GM (November 18, 2016) at *https://www.nhtsa.gov/interpretations/16-1289-gm-hazard-innovative-28-apr-16-rsy.*

[20] *See* Letter to Timothy Bartlett (January 28, 2002) at *https://www.nhtsa.gov/interpretations/23695ztv.*

[21] *See* Letter to Brian Latouf, Executive Director, GM (November 18, 2016) at *https://www.nhtsa.gov/interpretations/16-1289-gm-hazard-innovative-28-apr-16-rsy.*

[22] *See* Letter to Mark Steele, Steel Enterprises (October 7, 1999) at *https://www.nhtsa.gov/interpretations/20662ztv.*

[23] *See* Letter to Senator Lugar (May 9, 2000) at *https://www.nhtsa.gov/interpretations/21478ztv. See also* Letter to Paul Michelotti (January 5, 2001) (opining that FMVSS No. 108 does not permit automatic activation of hazard warning lights ''under circumstances of heavy braking or sudden stoppage'') at *https://www.nhtsa.gov/interpretations/22403ztv.*

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that DTNA has not met its burden of persuasion that the subject FMVSS No. 108 noncompliances are inconsequential to motor vehicle safety. Accordingly, DTNA's petition is hereby denied and DTNA is obligated to provide notification of and free remedy for the noncompliances under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.)

Anne L. Collins,

Associate Administrator for Enforcement.

[FR Doc. 2023–05901 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2023–0007 (Notice No. 2023–02)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on three Office of Management and Budget (OMB) control numbers pertaining to hazardous materials transportation. PHMSA intends to request renewal for these three control numbers from OMB.

DATES: Interested persons are invited to submit comments on or before May 22, 2023.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2023–0007 (Notice No. 2023–02) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2023–0007) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Steven Andrews or Glenn Foster, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Confidential Business Info: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as ''CBI.'' Please mark each page of your submission containing CBI as ''PROPIN.'' PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Steven Andrews or Glenn Foster, Standards and Rulemaking Division and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Steven Andrews or Glenn Foster, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** alerting the public upon OMB's approval.

PHMSA requests comments on the following information collections:

Title: Hazardous Materials Incident Reports.

OMB Control Number: 2137–0039.

Summary: This information collection is applicable upon occurrence of an incident as prescribed in 49 CFR 171.15 and 171.16. A Hazardous Materials Incident Report, DOT Form F 5800.1, must be completed by a person in physical possession of a hazardous material at the time a hazardous material incident occurs in transportation, such as a release of materials, serious accident, evacuation, or closure of a main artery. Incidents meeting criteria in 49 CFR 171.15 also require a telephonic report. This information collection enhances the Agency's ability to evaluate the effectiveness of its regulatory program, determine the need for regulatory changes, and address emerging hazardous materials transportation safety issues. The requirements apply to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, water, and highway. The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Telephone Notifications	180	716	0.08	57
Incident Reports Paper—Written	172	2,888	1.6	4,621
Incident Reports—Electronic	166	19,720	0.8	15,776

Affected Public: Shippers and carriers of hazardous materials.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 518.

Total Annual Responses: 23,324.

Total Annual Burden Hours: 20,454.

Frequency of Collection: On occasion.

Title: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

OMB Control Number: 2137–0595.

Summary: This information collection and recordkeeping burden pertains to the requirements applicable to the manufacture, certification, inspection, repair, maintenance, and operation of certain DOT specification and non-specification cargo tank motor vehicles used to transport liquefied compressed gases. These requirements are intended to ensure cargo tank motor vehicles used to transport liquefied compressed gases are operated safely, and to minimize the potential for catastrophic releases during unloading and loading operations. They include: (1) requirements for operators of cargo tank motor vehicles in liquefied compressed gas service to develop operating procedures applicable to unloading operations and carry the operating

procedures on each vehicle; (2) inspection, maintenance, marking, and testing requirements for the cargo tank discharge system, including delivery hose assemblies; and (3) requirements for emergency discharge control equipment on certain cargo tank motor vehicles transporting liquefied compressed gases that must be installed and certified by a Registered Inspector.

The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Marking New/Repaired Hoses with Unique Identifier	6800	12,172	0.083	1,010
Monthly Hose Inspections Record	6800	439,960	0.1	43,996
Record of Monthly Piping Tests Record	6800	400,112	0.2	80,022
Hose Pressure Test Marking Record	6800	12,172	0.083	1,010
Annual Hose Test Record	6800	36,652	0.42	15,394
Cargo Tanks in Other Than Metered Delivery Service—Design Certification for Automatic Shutoff	150	900	8	7,200
Cargo Tanks in Other Than Metered Delivery Service—Instillation of Shutoff System by a Registered Inspector	150	900	8	7,200
Cargo Tank Motor Vehicles in Metered Delivery Service—Certification of Remote-Control Equipment by a Registered Inspector	150	3300	8	26,400

Affected Public: Carriers in liquefied compressed gas service, manufacturers and repairers.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 34,450.

Total Annual Responses: 906,168.

Total Annual Burden Hours: 182,232.

Frequency of Collection: On occasion.

Title: Inspection and Testing of Meter Provers.

OMB Control Number: 2137–0620.

Summary: This information collection and recordkeeping burden results from the requirements pertaining to the use, inspection, and maintenance of mechanical displacement meter provers (meter provers) used to check the accurate flow of liquid hazardous materials into bulk packagings, such as portable tanks and cargo tank motor vehicles, under the HMR. These meter provers are used to ensure that the proper amount of liquid hazardous materials is being loaded and unloaded. These meter provers consist of a gauge and several pipes that always contain small amounts of the liquid hazardous material in the pipes as residual material and, therefore, must be inspected and maintained in accordance with the HMR to ensure they are in proper calibration and working order. These meter provers are not subject to the specification testing and inspection requirements in 49 CFR part 178. However, these meter provers must be visually annually inspected and hydrostatic pressure tested every five years in order to ensure they are properly working as specified in 49 CFR 173.5a of the HMR. Therefore, this information collection requires that:

(1) Each meter prover must undergo and pass an annual external visual inspection to ensure that the meter provers used in the flow of liquid hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(2) Each meter prover must undergo and pass a hydrostatic pressure test at least every 5 years to ensure that the meter provers used in the flow of liquid hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(3) Each meter prover must successfully complete the test and inspection and must be marked in accordance with 49 CFR 180.415(b) and 173.5a.

(4) Each owner must retain a record of the most recent visual inspection and pressure test until the meter prover is requalified.

The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Annual Visual Inspection	250	250	0.5	125
Hydrostatic Pressure Test (Every 5 Years)	250	250	0.2	50

Affected Public: Owners of meter provers used to measure liquid hazardous materials flow into bulk packagings such as cargo tanks and portable tanks.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 500.

Total Annual Responses: 500.

Total Annual Burden Hours: 175.

Frequency of Collection: On occasion.

Issued in Washington, DC, on March 17, 2023.

Shane C. Kelley,

Director, Standards and Rulemaking, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2023–05877 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

CDFI and NACA Program Paperwork Reduction Act (PRA), Correction

ACTION: Notice and request for public comment, correction.

SUMMARY: The Department of the Treasury, Community Development Financial Institutions Fund (the CDFI Fund) published a document in the **Federal Register**/Vol. 88, No. 42/Friday, March 3, 2023/Notices. The CDFI Fund is issuing a correction related to page 13512 in the second column, 13. FA Objectives, second paragraph: a. The CDFI Fund proposes to eliminate FAO 1–1: Increase Volume of Financial Services from the list of FAOs to select in the FA Application. The original document contained incorrect FAO number.

FOR FURTHER INFORMATION CONTACT: Terri A. Dawson, Executive Assistant to the CDFI Fund Director, 202–653–0341.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register**/Vol. 88, No. 42/Friday, March 3, 2023/Notices. On page 13512, in the second column, 13. FA Objectives, second paragraph: a. The CDFI Fund proposes to eliminate FAO 1–1: Increase Volume of Financial Services from the list of FAOs to select in the FA Application. Correct this section to read: a. The CDFI Fund proposes to eliminate FAO 1–2: Increase Volume of Financial Services from the list of FAOs to select in the FA Application.

Dated: March 16, 2023.

Terri A. Dawson,

Liaison, Community Development Financial Institutions Fund.

[FR Doc. 2023–05803 Filed 3–21–23; 8:45 am]

BILLING CODE 4810–05–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date.

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On January 5, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. AL–KHATUNI, Abd Al Hamid Salim Ibrahim Ismail Brukan, (a.k.a. ALISMAEEL, Abdulhameed Salim Ibrahim; a.k.a. AL–KHATUNI, 'Abd-al-Hamid Salim Ibrahim Isma'il; a.k.a. ''AL–KHATUNI, Brukan''), Mersin, Turkey; DOB 01 Sep 1970; alt. DOB 12 Jan 1970; POB Ba'aj, Iraq; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. AL–JUBURI, Lu'ay Jasim Hammadi (a.k.a. AL–JUBURI, Lu'ay Jasim Hammadi Mahdi; a.k.a. HAMMADI, Lu'ay Jasim; a.k.a. ''Hajji Lu'ay''), Mersin, Turkey; DOB 06 Oct 1970; POB Baghdad, Iraq; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. AL–KHATUNI, Umar Abdul Hamid Salim Brukan (a.k.a. ALESMAIL, Omar Abdulhameed), Mersin, Turkey; DOB 15 May 1995; POB Mosul, Iraq; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. AL–KHATUNI, Muhammad Abdul Hamid Salim Brukan (a.k.a. AL–ISMAEEL, Mohammed Abdulhameed Salim), Mersin, Turkey; DOB 06 Jan 2002; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Entities

1. SHAM EXPRESS (a.k.a. SHAM EXPRESS KARGO OTOMOTIV GIDA INSAAT ELEKTRONIK TEKSTIL ITHALAT IHRACAT SANAYI VE TICARET LIMITED SIRKETI), Cankaya Mah. Ismet Inonu Bulvari Yasat Ishani Sitesi No:118/134, Akdeniz, Mersin, Turkey; website *shamexpress.com.tr;* Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Registration Number 49304 (Turkey) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. WADI ALRRAFIDAYN FOR FOODSTUFFS (f.k.a. AL–SARAF COMPANY FOR GENERAL TRADE; f.k.a. ALSARAF HAWALA OFFICE; f.k.a. AL–SARAF HAWALA OFFICE; a.k.a. WADI

ALRRAFIDAYN GIDA YAS SEBZE MEYVE BAKLIYAT OTOMOTIV TEKSTIL ITH IHR SAN VE TIC LTD STI), No. 1–11 Bahce Mahallesi, Mersin 33010, Turkey; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 30 Sep 2019; Business Registration Number 53175 (Turkey) [SDGT] (Linked To: AL–KHATUNI, Abd Al Hamid Salim Ibrahim Ismail Brukan).

Designated pursuant to section 1(a)(iii)(A) of Executive Order 13224, as amended, for being owned, controlled, or directed by, Abd Al Hamid Salim Ibrahim Ismail Brukan Al-Khatuni, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: January 5, 2023.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–05795 Filed 3–21–23; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 88 Wednesday,

No. 55 March 22, 2023

Part II

Department of Transportation

Federal Railroad Administration

49 CFR Part 227

Emergency Escape Breathing Apparatus Standards; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 227

[Docket No. FRA–2009–0044, Notice No. 2]

RIN 2130–AC14

Emergency Escape Breathing Apparatus Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: FRA is proposing to amend its regulations related to occupational noise exposure in three ways. First, in response to a Congressional mandate, FRA is proposing to expand those regulations to require that railroads provide an appropriate atmosphere-supplying emergency escape breathing apparatus to every train crew member and certain other employees while they are occupying a locomotive cab of a freight train transporting a hazardous material that would pose an inhalation hazard in the event of release during an accident. Second, FRA is proposing to change the name of this part of its regulations from ''Occupational Noise Exposure'' to ''Occupational Safety and Health in the Locomotive Cab'' to reflect the additional subject matter of this SNPRM and to make other conforming amendments. Third, FRA is proposing to remove the provision stating the preemptive effect of this part of FRA's regulations because it is unnecessary.

DATES: Written comments on the proposed rule must be received by June 20, 2023. FRA will consider comments received after that date to the extent practicable.

ADDRESSES: Comments related to Docket No. FRA–2009–0044, Notice No. 2, may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number (FRA–2009–0044) or Regulatory Identification Number (RIN) for this rulemaking (2130–AC14). All comments received will be posted without change to *http://www.regulations.gov;* this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Michael Watson, Occupational Safety and Health Manager, Office of Railroad Safety, telephone 202–493–9544, email: *michael.watson@dot.gov* or Richard Baxley, Attorney Adviser, Office of the Chief Counsel, telephone: 202–853–5053, email: *richard.baxley@dot.gov.*

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

AAR—Association of American Railroads
AIHA—American Industrial Hygiene Association
ANSI—American National Standards Institute
ASLRRA—American Short Line and Regional Railroad Association
BLET—Brotherhood of Locomotive Engineers and Trainmen
BNSF—BNSF Railway Company
BS—British Standards Institution
CEN—European Committee for Standardization
CFR—Code of Federal Regulations
CO_2—carbon dioxide
DOT—U.S. Department of Transportation
EEBA—emergency escape breathing apparatus
EN—European standard
FRA—Federal Railroad Administration
FRSA—the former Federal Railroad Safety Act of 1970, repealed and reenacted as positive law primarily at 49 U.S.C. ch. 201
HMIS—Hazardous Materials Information System
IDLH—immediate danger to life or health or immediately dangerous to life or health
IFRA—Initial Regulatory Flexibility Analysis
ISEA—International Safety Equipment Association
ISO—International Organization for Standardization
LBIA—the former Locomotive (Boiler) Inspection Act, repealed and reenacted as positive law in 49 U.S.C. 20701–20703
LPG—liquefied petroleum gas
NIOSH—National Institute for Occupational Safety and Health
NPRM—notice of proposed rulemaking
NS—Norfolk Southern Railway Company
NTSB—National Transportation Safety Board
O_2—Oxygen
OMB—Office of Management and Budget
OSHA—Occupational Safety and Health Administration
PHMSA—Pipeline and Hazardous Materials Safety Administration
PIH material—poison inhalation hazard material
ppm—parts per million
PTC—positive train control
RCO—remote control operator
RFID—radio frequency identification
RIA—Regulatory Impact Analysis
RSIA—Rail Safety Improvement Act of 2008, Public Law 110–432, Division A
SBA—Small Business Administration
SCBA—self-contained breathing apparatus
SCSR—self-contained, self-rescuer
T&E employees—train and engine service employees
UP—Union Pacific Railroad Company
UTU—United Transportation Union

Table of Contents for Supplementary Information

I. Executive Summary
A. Purpose of Regulatory Action
B. Summary of Major Provisions
C. Costs and Benefits
II. Statutory Authority
III. Background
A. Accident History and NTSB Recommendation R–05–17
B. FRA Sponsored Study
C. FRA's 2016 Guidance for Developing an EEBA Program
IV. Selection of the Appropriate EEBA by Railroads
V. Provision of EEBAs to Covered Employees
VI. Information and Recommendations Provided by the Railroad Industry and Railroad Labor Organizations After the Study
VII. Public Comment on the NPRM, With FRA's Response
A. Introduction
B. Comments on the Preamble, With FRA's Response
C. Comments Recommending Additional Provisions, With FRA's Response
D. Section-Specific Public Comments, With FRA's Response
1. Comments on Proposed § 227.201(a)(1), With FRA's Response
2. Comments on Proposed § 227.201(a)(2), With FRA's Response
3. Comments on Proposed § 227.201(b), With FRA's Response
4. Comments on Proposed § 227.203(b), With FRA's Response
5. Comments on Proposed § 227.203(c), With FRA's Response
6. Comments on Proposed § 227.203(d)(1), With FRA's Response
7. Comments on Proposed § 227.203(d)(2), With FRA's Response
8. Comments on Proposed § 227.205, With FRA's Response
9. Comments on Proposed § 227.207, With FRA's Response
10. Comments on Proposed § 227.209, With FRA's Response
11. Comments on Proposed § 227.211, With FRA's Response
12. Comments on Proposed § 227.217, With FRA's Response
VIII. Section-by-Section Analysis
IX. Regulatory Impact and Notices
A. Executive Order 12866
B. Regulatory Flexibility Act and Executive Order 13272
1. Reasons for Considering Agency Action
2. A Succinct Statement of the Objectives of, and the Legal Basis for, the Proposed Rule
3. A Description of, and Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply
4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Class of Small Entities

That Would Be Subject to the Requirements and the Type of Professional Skill Necessary for Preparation of the Report or Record
5. Summary of Class III Railroad Costs
6. Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule
7. A Description of Significant Alternatives to the Rule
C. Federalism
D. International Trade Impact Assessment
E. Paperwork Reduction Act
F. Compliance With the Unfunded Mandates Reform Act of 1995
G. Environmental Assessment
H. Energy Impact
I. Privacy Act
J. Analysis Under 1 CFR Part 51
K. Executive Order 12898 (Environmental Justice)
L. Executive Order 13175 (Tribal Consultation)

I. Executive Summary

A. Purpose of Regulatory Action

After fatalities resulting from the inhalation of chlorine gas following rail accidents in 2004 and 2005, the NTSB issued a recommendation that FRA require railroads to provide emergency escape breathing apparatuses (EEBAs) to their crewmembers.[1] Subsequently, in October 2008, Congress enacted the RSIA.[2] Section 413 of the RSIA mandated that FRA issue regulations requiring railroads to provide EEBA, and training in their use, for train crews in the locomotive cabs of any freight train transporting a hazardous material in commerce that would present an inhalation hazard in the event of a release. The purpose of this SNPRM is to respond to that statutory mandate, and it would also respond to NTSB Safety Recommendation R–05–17.

FRA first issued an NPRM responsive to the mandate of Section 413 in October 2010.[3] Based on the cost-benefit analysis in the NPRM, and the comments received in response to the NPRM, FRA issued a guidance document[4] rather than a final rule. FRA intended for railroads to use the guidance document to develop EEBA programs to protect railroad employees involved in transporting hazardous materials posing an inhalation hazard. However, NTSB found that the guidance document did not satisfy its recommendation, and the statutory mandate remains in place. Accordingly, FRA is issuing this SNPRM, with some revisions to the NPRM, to open the matter again to public comment and continue towards a final rule as required by statute.

B. Summary of Major Provisions

This SNPRM proposes to amend subpart C of 49 CFR part 227 to require any freight railroad transporting a hazardous material that would pose an inhalation hazard if released during an accident to provide certain employees an appropriate atmosphere-supplying EEBA when occupying a locomotive cab. For reasons explained below, in FRA's response to public comments, FRA has decided that the primary concern in establishing the requirement for the provision of EEBAs should be focused on hazards that can result in poisoning through inhalation. This does not include simple asphyxiants but does include hazardous materials that PHMSA identifies as ''materials poisonous by inhalation,'' which are commonly referred to as ''PIH materials'' and are defined by PHMSA's Hazardous Materials Regulations as: (1) a gas meeting the defining criteria in 49 CFR 173.115(c) (*i.e.,* Division 2.3—Gas poisonous by inhalation) and assigned to Hazard Zone A, B, C, or D in accordance with 49 CFR 173.116(a); (2) a liquid, other than a mist, meeting the defining criteria regarding inhalation toxicity in 49 CFR 173.132(a)(1)(iii) and assigned to Hazard Zone A or B in accordance with 49 CFR 173.133(a); or (3) any material identified as an inhalation hazard by a special provision in column 7 of the table in 49 CFR 172.101.[5]

PIH materials that are regularly carried by railroads include chlorine gas, anhydrous ammonia, ethylene oxide, and anhydrous hydrofluoric acid. Together these four products make up over 90 percent of PIH material shipments by rail. Such commodities are readily identifiable by train crews, both because a ''rail car transporting any quantity of a hazardous material (including either a load or the residue[6] of one of these covered materials) must be placarded on each side and each end'' pursuant to the requirements of 49 CFR 172.504 and because train crews ''must have a copy of a document for the hazardous material being transported'' that provides details of the hazardous material pursuant to 49 CFR 174.26. A car transporting a Class 2, Division 2.3 material, must have ''POISON GAS'' placards[7] and a car carrying any of the subset of Class 6, Division 6.1 materials that is a ''material poisonous by inhalation'' must have ''POISON INHALATION HAZARD'' placards, except that ''[f]or domestic transportation, a POISON INHALATION HAZARD placard is not required on a transport vehicle [including a rail car] or freight container that is already placarded with the POISON GAS placard.''[8] As a result, when a train crewmember observes a car placarded POISON GAS or POISON INHALATION HAZARD while the car is part of his or her train, the crewmember will know that EEBAs must be provided to covered employees occupying the locomotive cab prior to the train beginning its movements. EEBAs are intended to protect covered employees from the risk of exposure to such hazardous materials during the period while the employees are in the locomotive cab or escaping from a hazardous materials release posing an inhalation hazard.

This SNPRM also proposes railroads that transport a PIH material on the general railroad system of transportation establish and carry out programs for: selection, procurement, and provision of EEBAs; inspection, maintenance, and replacement of EEBAs; and instruction of employees in the use of EEBAs. Railroads would be required to identify individual employees or positions to be placed in their general EEBA programs so that a sufficient number of EEBAs are available and to ensure that the identified employees or incumbents of the identified positions know how to use the devices. This SNPRM would require railroads provide for storage of EEBAs in locomotive cabs to enable employees to access the apparatus quickly in the event of a release of a hazardous material that poses an inhalation hazard.

Because the proposals in this SNPRM would add a new subpart to 49 CFR part 227, FRA is also proposing conforming changes, minor corrections, and updates to the existing provisions of part 227. Further, FRA is removing the provision at 49 CFR 227.7 on the preemptive effect of part 227 as it is unnecessary because it is duplicative of statutory law at 49

[1] NTSB Recommendation R–05–17. *https://www.ntsb.gov/investigations/AccidentReports/Reports/RAR0504.pdf.*

[2] Public Law 110–432, Div. A, 122 Stat. 4848, October 16, 2008 (49 U.S.C. 20166).

[3] 75 FR 61386 (Oct. 5, 2010).

[4] Federal Railroad Administration Guidance for Developing an Atmosphere-Supplying Emergency Escape Breathing Apparatus Program (Dec. 2016). *https://railroads.dot.gov/elibrary/federal-railroad-administration-guidance-developing-atmosphere-supplying-emergency-escape.*

[5] 49 CFR 171.8.

[6] ''*Residue* means the hazardous material remaining in a packaging, including a tank car, after its contents have been unloaded to the maximum extent practicable and before the packaging is either refilled or cleaned of hazardous material and purged to remove any hazardous vapors.'' 49 CFR 171.8.

[7] 49 CFR 172.540.

[8] Class 6, Division 6.1 materials other than material poisonous by inhalation must be placarded ''POISON.'' *See* 49 CFR 172.504, Table 2, and section on placard design at 49 CFR 172.554. 49 CFR 172.555 and 49 CFR 172.504(f)(8).

U.S.C. 20106 and case law. *See Napier* v. *Atlantic Coast Line R.R.,* 272 U.S. 605, 613; 47 S.Ct. 207, 210 (1926).

C. Costs and Benefits

FRA analyzed the economic impact of this SNPRM. FRA estimated the costs estimated to be incurred by railroads and the benefits of fewer injuries to crewmembers from PIH material releasing after an accident/incident.

FRA is proposing a rule that would enable covered employees in locomotive cabs, whose freight train is transporting PIH materials, to wear EEBAs in the event of a release of such materials. This proposed rule would require that an EEBA be provided for each covered employee in a locomotive cab on a freight train transporting any PIH material. These EEBAs would provide neck and face coverage with respiratory protection for these covered employees. As proposed, railroads must also ensure that the equipment is maintained and in proper working condition. Finally, railroads would be required to train covered employees on the use of the EEBAs. The main objective of this proposed rule is to protect to protect covered employees from the risk of exposure to PIH materials while the employees are in the locomotive cab or escaping from a hazardous materials release posing an inhalation hazard.

Details on the estimated costs of this SNPRM can be found in the RIA, which FRA has prepared and placed in the docket (FRA–2009–0044). The RIA presents estimates of the costs likely to occur over the first 10 years of the proposed rule. The analysis includes estimates of costs associated with the purchase of EEBAs and installation, employee training, and recordkeeping.

FRA has estimated costs for three options that are permissible under the rule. These include:

- *Option 1:* Employee Assignment—EEBAs are assigned to all covered employees and considered part of their equipment.
- *Option 2:* Locomotive Assignment—EEBAs are assigned to and kept in locomotives.
- *Option 3:* Equipment Pooling—EEBAs are pooled at rail yards and kept in storage lockers where employees would check-in and check-out the EEBA when PIH is being hauled.

For all three options, FRA developed estimates using a closed-circuit EEBA.[9] For the ''Employee Assignment'' option, FRA estimates that the costs associated with issuing each T&E employee ($60,000) with an EEBA as their own personal equipment. The ''Locomotive Assignment'' option would require installing EEBA devices in all locomotives in a railroad's fleet, regardless of whether a locomotive is part of a train that is transporting PIH material. There are approximately 24,000 locomotives owned by Class I railroads, and FRA estimates that at least three apparatus would have to be installed in each locomotive, one apparatus each for the conductor, the engineer, and an additional covered employee. In the ''Equipment Pooling'' option, FRA considered only having EEBAs provided in trainsets that were transporting PIH. EEBAs would be brought on board after a determination is made on a case-by-case basis.

FRA estimates the 10-year costs of the proposed rule to be between $27.1 million to $91.6 million, discounted at 7 percent. The following table shows the total costs of this proposed rule, over the 10-year analysis period.

Total 10-Year Costs (2021 Dollars) [10]

Category	10-Year cost ($)	Present value 7% ($)	Present value 3% ($)	Annualized 7% ($)	Annualized 3% ($)
Option 1: Employee Assignment	$92,006,767	$78,979,882	$85,771,368	$11,244,958	$10,055,021
Option 2: Locomotive Assignment	106,793,579	91,611,301	99,524,731	13,043,388	11,667,335
Option 3: Equipment Pooling	33,527,842	27,100,467	30,398,108	3,858,497	3,563,586

The SNPRM is expected to improve railroad safety by ensuring that all covered employees in locomotives on freight trains transporting PIH material can safely vacate the exposed area if a PIH material release were to occur. The primary benefits include heightened safety for covered employees and, as a result, earlier awareness/notification to the public of any catastrophic release of a PIH material. Implementation of the SNPRM should mitigate the injuries to covered employees from PIH material releasing after an accident/incident. During a 10-year period, this analysis finds $43,110 (PV, 7 percent) in safety benefits could accrue through injury prevention.

Category	10-Year benefits ($)	Present value 7% ($)	Present value 3% ($)	Annualized 7% ($)	Annualized 3% ($)
Total Benefits from Injury Prevention	$63,720	$43,110	$53,520	$6,138	$6,274

II. Statutory Authority

Section 413 of the RSIA mandates that the Secretary of Transportation (Secretary) adopt regulations requiring railroads to provide EEBAs for the train crews in the locomotive cabs of any freight train transporting a hazardous material in commerce that would present an inhalation hazard in the event of a release. Specifically, the statute instructs the Secretary to prescribe regulations requiring railroads to: (1) ensure that EEBAs affording suitable ''head and neck coverage with respiratory protection'' are provided ''for all crewmembers'' in a locomotive cab on a freight train transporting ''hazardous materials that would pose an inhalation hazard in the event of a release;'' (2) provide a place for convenient storage of EEBAs in the locomotive that will allow ''crewmembers to access such apparatus quickly;'' (3) maintain EEBAs ''in proper working condition;'' and (4) provide crewmembers with appropriate instruction in the use of EEBAs. The Secretary has delegated the responsibility to carry out his responsibilities under this section of the RSIA to the Administrator of FRA. 49 CFR 1.89(b). Additionally, FRA is issuing this SNPRM under the authority of 49 U.S.C. 20103 and 49 U.S.C. 20701–

[9] A closed-circuit EEBA is a device designed for use as respiratory protection during entry into hazardous atmospheres that can be immediately dangerous to life and health and are described as an apparatus of the type in which the exhaled breath is rebreathed by the wearer after the CO_2 has been effectively removed and oxygen concentration restored to suitable levels.

[10] Numbers in this table and subsequent tables may not sum due to rounding.

20703, as delegated to the Administrator of FRA pursuant to 49 CFR 1.89(a).

III. Background

A. Accident History and NTSB Recommendation R–05–17

As noted in the 2010 NPRM, historical data suggests limited train crew injuries and fatalities related to the catastrophic release of a PIH material; in the last decade (2012 to 2021), there were no PIH-related fatalities of T&E personnel, and only two injuries, both of which resulted in symptoms due to one-time inhalation exposure to airborne contamination.

While rail accidents involving the release of PIH materials are S as demonstrated by the June 2004 rail accident in Macdona, Texas, and the January 2005 accident in Graniteville, South Carolina, such accidents can be deadly to both the crew members involved and others in the vicinity. Both the Macdona and Graniteville accidents involved the release of a PIH material (chlorine) and both accidents resulted in the deaths of crewmembers.

The collision near Macdona occurred on June 28, 2004. According to the NTSB's report,[11] a westbound freight train traveling on the same main line track as an eastbound freight train struck the midpoint of the 123-car eastbound train as it was leaving the main line to enter a parallel siding. The collision derailed the 4 locomotive units and the first 19 cars of the westbound train as well as 17 cars of the eastbound train. As a result of the derailment and pileup of railcars, the 16th car of the westbound train, a pressure car loaded with liquefied chlorine, was punctured. Chlorine escaping from this car immediately vaporized into a cloud of chlorine gas that engulfed the accident area to a radius of more than 700 feet. Three people, including the conductor of the westbound train and two local residents, died as a result of chlorine gas inhalation.

The Graniteville accident occurred on January 6, 2005, when a freight train encountered a switch that had been improperly lined. The improperly lined switch diverted the train from the main line onto an industry track. Once on the industry track, the train struck an unoccupied, parked train. The collision resulted in the derailment of two locomotives and 16 freight cars on the diverted train, as well as the locomotive and one of the two cars of the parked train. There were three tank cars containing chlorine among the derailed cars on the diverted train. One of the cars containing chlorine was breached causing a release of chlorine gas, which resulted in the train engineer and eight other people dying from chlorine gas inhalation.[12]

Following the Macdona and Graniteville accidents, the NTSB issued Safety Recommendation R–05–17 to FRA recommending that FRA determine the most effective methods of providing emergency escape breathing apparatus for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of unintentional release, and then require railroads to provide those breathing apparatus to their crewmembers along with appropriate training.

B. FRA Sponsored Study

In response to NTSB Safety Recommendation R–05–17, FRA commissioned a study of EEBAs in cooperation with the railroad industry and railroad labor. As part of the study, FRA compiled factual information, performed technical, risk, and economic analyses, and made recommendations on ''the use of [EEBAs] by train crews who may have exposure to hazardous materials [that] would pose an inhalation hazard in the event of unintentional release.'' The study, published in 2009, provided information and recommendations on the use of EEBAs by train crews who may be exposed to hazardous materials that pose inhalation hazards. The study concluded that railroads should consider using EEBAs on trains transporting hazardous materials that pose in inhalation hazard.[13] Part of the preamble to this proposed rule draws from the study; however, after further consideration of the issues involved and consultation with representatives of the railroad industry and railroad labor (as discussed under ''Section VII. Information and Recommendations Provided by the Railroad Industry and Railroad Labor Organizations after the Study''), FRA has come to different conclusions on a number of matters. These matters include the minimum breathing time that EEBAs should provide, the analysis of different methods of distribution of the devices, and the costs and benefits of various EEBA alternatives.

C. FRA's 2016 Guidance for Developing an EEBA Program

In December 2016, FRA published, in the absence of a final rule, Guidance for Developing an EEBA Program.[14] This provided guidance to railroads for developing and implementing an individualized EEBA program to protect their crewmembers. The guidance highlights factors to consider when selecting an appropriate EEBA and explains various components to evaluate when developing an EEBA program. However, FRA is unaware of any railroad that has developed an EEBA program or made EEBAs generally available to their crewmembers.

IV. Selection of the Appropriate EEBA by Railroads

As explained in the 2010 NPRM, EEBAs are ''respirators'' and generally there are two different types of respirators: air purifying and atmosphere-supplying. Air-purifying respirators remove specific air contaminants by passing ambient air through an air-purifying element, such as an air-purifying filter, cartridge, or canister. Atmosphere-supplying respirators supply breathing air from a source independent from the ambient atmosphere. Types of atmosphere-supplying respirators include airline supplied-air respirators and SCBA units. Based on the factors presented below, FRA is proposing to require an atmosphere-supplying respirator that provides adequate head and neck protection as well as giving sufficient time for its user to escape an IDLH atmosphere.[15] In the 2010 NPRM, FRA noted that it was aware of three main organizations that had promulgated standards governing the use and maintenance of respirators—NIOSH, OSHA, and the ISO.[16] Since issuance of the 2010 NPRM, however, FRA has become aware of a third organization, CEN, that has also developed two relevant standards.

[11] ''Collision of Union Pacific Railroad Train MHOTU–23 With BNSF Railway Company Train MEAP–TUL–126–D With Subsequent Derailment and Hazardous Materials Release, Macdona, Texas, June 28, 2004,'' Railroad Accident Report NTSB/RAR–06/03, Washington, DC.

[12] ''Collision of Norfolk Southern Freight Train 192 With Standing Norfolk Southern Local Train P22 With Subsequent Hazardous Materials Release at Graniteville, South Carolina, January 6, 2005,'' Railroad Accident Report NTSB RAR–05/04, Washington, DC.

[13] *See* ''Emergency Escape Breathing Apparatus,'' FRA Office of Research and Development, Final Report, May 2009, which is posted at *https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/1419/ord0911.pdf.*

[14] Federal Railroad Administration Guidance for Developing an Atmosphere-Supplying Emergency Escape Breathing Apparatus Program (Dec. 2016). *https://railroads.dot.gov/elibrary/federal-railroad-administration-guidance-developing-atmosphere-supplying-emergency-escape.*

[15] NIOSH defines an IDLH as ''an atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.'' *See* 29 CFR 1910.134(b).

[16] 75 FR 61386, 61390 (Oct. 5, 2010).

As explained in the 2010 NPRM, NIOSH, located within the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services, worked with government and industry partners to develop certification standards for respirators. The NIOSH regulations, codified at 42 CFR part 84, establish the requirements for NIOSH-certification of respirator equipment. NIOSH has also developed information on safe levels of exposure to toxic materials and harmful physical agents and issued recommendations for respirator use.

ISO has also established standards for respirator maintenance and use. The ISO is a network of national standards institutes in 162 countries, including the United States, through the American National Standards Institute. ISO develops international standards to assist in ensuring the safe performance of a wide range of EEBAs. While ISO is not a government organization, it works to establish performance standards that have scientific and technological bases while ensuring that products, falling within its purview, are safe and reliable for consumers. The organization has promulgated ISO 23269–1:2008(E), ''Ships and marine technology—Breathing apparatus for ships—Part 1: Emergency escape breathing devices (EEBD) for shipboard use, First Edition (2008–02–01).'' While ISO 23269–1:2008 is directed towards EEBAs on ships and marine technology, the standard can be reasonably transferred to the railroad environment. ISO 23269–1:2008 establishes performance specifications for EEBAs that are intended to provide air or oxygen to a user to facilitate escape from accommodation and machinery spaces, similar to a locomotive cab, with a hazardous atmosphere.[17]

CEN serves a similar purpose as ISO in that it develops consensus standards for European countries. In creating these standards, CEN relies on the input of technical experts, business and consumer groups, and other societal interest organizations. Additionally, there is a measure of interconnectedness between the ISO and CEN, as CEN has entered into a cooperative agreement with ISO to avoid duplicative standards. In the area of escape respirators, CEN has developed two standards that railroads could use to identify an appropriate EEBA to provide to an employee. The first standard establishes requirements for approving closed-circuit escape respirators, *see* BS EN 13794:2002 E, ''Respiratory Protective Devices—Self-Contained, Closed-Circuit Breathing Apparatus for Escape—Requirements, Testing, Marking (November 2002),'' while the second standard establishes requirements for approving open-circuit escape respirators, *see* BS EN 1146:2005: E, ''Respiratory Protective Devices—Self-Contained, Open-Circuit Compressed Air Breathing Apparatus Incorporating a Hood for Escape—Requirements, Testing, Marking (September 2005).'' While BS EN 13794:2002 and BS EN 1146:2005 are standards created for the European market, FRA finds that compliance with either standard would be adequate to establish the reliability of a device, subject to the provisions of this regulation, specifically, proposed 49 CFR 227.203, which is discussed in detail below. *See* VIII. Public Comment on the NPRM, with FRA's Response and IX. Section-by-Section Analysis.

Additionally, OSHA, located within the U.S. Department of Labor, is responsible for developing and enforcing general workplace safety and health regulations related to respiratory protection. In furtherance of this responsibility, OSHA has promulgated extensive regulations governing the maintenance, care, and use of respirators of all types, including emergency escape devices. *See* 29 CFR 1910.134.

In drafting this proposed rule, FRA considered the requirements of both Federal agencies (NIOSH and OSHA) as well as the ISO and EN standards to assist in determining the possible types of EEBAs that may be used by railroad employees covered under this rule. To determine which type or types of EEBAs are appropriate, FRA has looked to the comprehensive selection process for respirators developed by NIOSH.[18] For purposes of EEBAs deployed in the railroad environment, the two major NIOSH factors to consider in selecting a respirator are to determine whether the respirator is intended for: (1) use in an oxygen-deficient atmosphere (*i.e.,* less than 19.5 percent O_2); and (2) use in, entry into, or escape from, unknown or IDLH atmospheres (*e.g.,* an emergency situation).

FRA's investigation into the Graniteville accident found that the concentration of the toxic chlorine cloud over the accident site area was estimated to be approximately 2,000 parts per million (ppm).[19] OSHA classifies chlorine as having an IDLH level of 10 ppm. FRA roughly estimated the distance between the final resting spot of the breached chlorine tank car in relation to the train crew, as well as the wind speed and size of breach, to determine that the chlorine plume reached the crew within two minutes. The coroner's report on the eight fatalities to persons who were not railroad employees in the Graniteville accident indicated that the primary cause of death was asphyxia, or lack of oxygen. The coroner listed the engineer's primary cause of death as lactic acidosis. Exposure to chlorine gas was attributed as the secondary cause of all deaths in the accident. Under the circumstances presented, it appears that both NIOSH selection criteria were met. There may have been an oxygen-deficient atmosphere, and there certainly was toxic-gas concentration exceeding IDLH levels.

The Graniteville accident demonstrated that railroad hazardous material incidents (meaning collisions, derailments, or other train accidents) involving the catastrophic loss of certain PIH materials have the potential to release IDLH concentrations and/or displace oxygen very quickly without the crew's knowledge. In such circumstances, the crew may need to respond to an incident by donning their EEBAs even before assessing the damage caused by an accident. Considering the variables associated with the transportation of hazardous materials via rail and the potential hazards that exist, FRA is, based on the NIOSH selection criteria, proposing to require that railroads provide an escape-type respirator to covered employees.

The single function of escape-type EEBAs is to allow sufficient time for an individual working in a normally safe environment to escape from suddenly occurring respiratory hazards. Given this function, the selection of the device does not rely on assigned protection factors designated by OSHA.[20] Instead, these escape-type respirators are selected based on a consideration of the

[17] However, as explained below, FRA believes that the minimum breathing capacity allowed by ISO 23269–1:2008, which is 10 minutes, is insufficient for the anticipated use in a railroad environment. As a result, the proposed rule requires a minimum breathing capacity of 15 minutes, which would be equally applicable to EEBAs certified under the requirements of NIOSH. *See* 42 CFR part 84, or ISO 23269–1:2008.

[18] *https://www.cdc.gov/niosh/docs/2005-100/default.html.*

[19] *See* R.L. Buckley, Detailed Numerical Simulation of the Graniteville Train Collision, Savannah River National Laboratory, Report WSRC–MS–2005–00635 October 2005.

[20] ''Assigned protection factor'' means the level of safety that a respirator or a class of respirators is expected to provide to employees. Assigned protection factors were developed by OSHA to designate to employers the proper type of device that is required in selecting a respirator. According to OSHA, assigned protection factors are not applicable to respirators used solely for escape.

time needed to escape in the event of IDLH or oxygen-deficient conditions.

Pursuant to statutory requirements, and as proposed in the 2010 NPRM, this SNPRM would require providing a device with head and neck coverage. Escape-type SCBA devices are commonly used with full-face pieces or hoods. Such devices are usually rated from 3- to 60-minute units depending on the supply of air. The following two types of atmosphere-supplying SCBA would satisfy the protection requirements of this proposed regulation:

• Open-Circuit SCBA. These are typically classified as positive pressure, open-circuit systems whereby the user receives (inhales) clean air with 21 percent O_2 from a compressed air cylinder worn with a harness on the back. The user's exhaled breath contains significant amounts (15 percent) of unused oxygen that is vented to atmosphere. Because much of the user's exhaled breath vents to atmosphere, the size of open-circuit systems is larger than closed-circuit systems. Open-circuit SCBA systems may employ full face masks or hoods and typically require an airtight seal against the head, face, or aural/nasal area.

• Rebreathers. These can be positive-pressure or negative-pressure systems. Classified as closed-circuit O_2 systems, rebreathers perform as their name implies. The user rebreathes his or her breath. A chemical scrubber removes the CO_2 from the user's breath and makes up metabolized O_2 from a small bottle of compressed 100-percent O_2. Because the user is rebreathing his or her exhaled air containing 15 percent oxygen, a rebreather is four times more efficient than an open-circuit system. As a result, such systems are capable of either lasting much longer than open-circuit systems (if size were comparable) or providing the same breathing duration as an open-circuit system but in a smaller package. Rebreathers may be employed with full-face masks or hoods. Negative pressure rebreathers do not require a tight seal.

First responders (such as firefighters) commonly use open-circuit positive pressure SCBA systems for entering the scene of an emergency event. However, such devices may not be best situated to the railroad environment. In addition to being heavy and cumbersome from incorporating a large, compressed air cylinder mounted to a harness, they also commonly incorporate use of a full-face piece. Depending on the program developed by each railroad, the incorporation of a full-face piece may be a logistically and economically difficult undertaking. To be effective, a full-face piece requires an airtight seal around the user's face, which means that each user must be personally fitted for the device. It also means the user must be cleanly shaven or otherwise free of excessive facial hair. The enforcement of such a requirement would be difficult at best.

FRA believes that hoods provide a useful alternative to full-face masks while protecting the face and neck. Hoods are universal fitting devices and can be used with open and closed-circuit SCBAs. Because they are universal fitting, hoods do not require personally fitting the user, and hoods operate efficiently regardless of most eyewear, facial features, or hair. Significantly, hoods also allow the wearer to communicate while using the SCBA.

Experience has shown that a plume of hazardous material can travel quickly. As a result, it is vitally important that the train crew has adequate breathing time available to allow each member to move a significant distance from the site while protected from the ambient atmosphere. Because such incidents will often result from a collision, as was the case in Macdona and Graniteville, consideration should be given to those situations where additional time may be used to assist or extricate fellow crewmembers that may be hurt or trapped. For example, if it takes 10 minutes to assist a fellow crewmember and each is wearing a 15-minute open-circuit respirator, each crewmember is left with five minutes to escape from any plume that may be present. Moreover, often individuals will have a tendency to over-breathe in stressful situations, which will shorten the breathing time available in a respirator. In selecting an EEBA with sufficient breathing time, each railroad should take into consideration these factors and others that contribute to the ''Murphy's Law'' effects of accidents such as an incident occurring at night or in tight terrain. As a result, FRA is proposing to require that EEBAs being provided to covered employees have a 15-minute minimum breathing capacity. Further, FRA encourages railroads to consider EEBAs with a longer breathing capacity, to provide an extra margin for escape under stressful circumstances.

V. Provision of EEBAs to Covered Employees

In proposing this regulation, FRA has decided not to propose a specific method by which railroads must provide EEBAs to covered employees. *See* discussion of covered employees at IX. Section-by-Section Analysis of §§ 227.201 and 227.211, below. FRA recognizes that there are differing methods for effectively distributing suitable EEBAs among a railroad's covered employees, its locomotive fleet, or both. Each of these options has advantages and disadvantages. Given these factors, FRA believes that the proposed regulation most efficiently serves the RSIA mandate by allowing each railroad to choose the method of distribution that works for it as long as: (1) covered employees are provided with a suitable device while they are in the locomotive cab of a freight train transporting a PIH material; and (2) transportation of a covered hazardous material is not unduly delayed, thereby posing additional risk, particularly where the covered train (or a locomotive intended to be used to haul a covered train) is interchanged from one railroad to another. *See* VII. Information and Recommendations Provided by the Railroad Industry and Railroad Labor Organizations after the Study, for relevant remarks. In the following paragraphs, FRA discusses the potential costs and benefits of five options available to railroads for providing EEBAs to covered employees.

Under this proposed rule, EEBAs may be treated as part of an employee's permanently issued items, similar to eye protection, radios, and lanterns. This method of distribution would allow railroads to permanently issue an EEBA to each potentially covered employee (*e.g.,* for a freight railroad that regularly hauls one or more PIH materials, possibly all of its train employees). The device would be in the user's control at all times, and each individual would be responsible for having the device in his or her possession. The carrier would still be responsible for ensuring the state of the equipment through an inspection program; however, the company would be relieved of most of the responsibilities for EEBA management. Theoretically, this option would tend to result in better cared for equipment and lower replacement costs. Moreover, personal assignment allows for customization of the EEBA. However, permanently issuing EEBA to employees results in substantial costs. Over a 10-year period, total costs would be approximately $90.8 million. Other negative aspects of treating EEBAs as a permanently issued item include difficulty in monitoring the condition of the EEBA and ensuring that the EEBA is with the user at all times that it is required to be available. Additionally, permanently issuing the EEBA would add to an already lengthy list of items expected to be carried by train employees.

Alternatively, EEBAs may also be permanently assigned to an individual as a dedicated personal item that would be issued at the start of each shift and recovered at the end of each shift as part of the clock-in/clock-out process. This method allows for customization and allows the EEBA to be with the user at all times the user is on duty, while supporting centralized inspection and maintenance. However, the railroad may experience greater costs due to the increased size of its EEBA inventory since all train employees that have the potential to work in the locomotive cab of a freight train transporting a PIH material would require stocked EEBAs. This alternative may also create difficulties in the provision of EEBAs if the train employees who must have access to the EEBAs have more than one on-duty location.

A third option is to treat EEBAs as ''pool'' items. The EEBAs would not be assigned to a specific individual. They would be issued at the start of each shift and recovered at the end of each shift as part of the clock-in/clock-out process. This option supports centralized inspection and maintenance while minimizing number of EEBAs required, which could reduce costs substantially. FRA estimates that trains transporting PIH materials amount to approximately 0.2 percent of all train traffic, as cars carrying PIH materials are concentrated in relatively few trains. If railroads chose this option, they could stock enough EEBAs to cover 10 percent of the entire locomotive fleet for approximately $33.5 million over a 10-year period. Equipping enough EEBAs to cover 10 percent of the entire locomotive fleet should allow for every locomotive that will be part of train transporting a PIH material to be equipped with the necessary devices for each covered employee provided that the railroads exercise adequate resource management with respect to EEBAs. This would ensure that the EEBA would be with the user throughout his or her entire shift. However, railroads likely would have to allocate or build space at one or more locations (depending on the size of the railroad) to warehouse EEBAs that are not being used by covered employees. Moreover, an employee must be assigned to monitor the handing out and returning of devices, and the fewer the devices, the tighter the management will have to be. These factors increase the management burden for tracking and recovery of EEBAs. Additionally, this system also may have hidden costs, such as losing the benefits of ''ownership'' if EEBAs are treated as common property.

A fourth option is to have EEBAs permanently mounted in each locomotive cab in the railroad's fleet. This method would ensure that trains transported by the railroad that include a PIH material are always adequately equipped, while supporting centralized inspection and maintenance. The negative aspects of permanently mounting the EEBA selected by the railroad in the cabs of the railroad's locomotive fleet include the increased size of the railroad's EEBA inventory if non-covered consists would transport the EEBAs and if EEBAs must be provided for worst-case crewing (including possible supernumerary personnel such as deadheading employees), increased management burden for tracking/recovery, increased management burden for item inspection and maintenance, and unavailability of customized EEBAs. Additionally, FRA has estimated that the total 10-year cost of outfitting all locomotives to be approximately $105.3 million. These estimates could be reduced if railroads opted to dedicate a portion of their locomotive fleet to service for trains transporting PIH materials, but dedicating locomotives in this manner would likely result in decreased economic efficiency.

As discussed in VII. Information and Recommendations Provided by the Railroad Industry and Railroad Labor Organizations after the Study, AAR has proposed that Class I railroads interchanging locomotives with each other will provide the same type of EEBA while also using the same method of equipping the locomotive, which would expedite interchange between two Class I railroads. However, the option of permanently mounting a specific type of EEBA within each locomotive owned by a Class I railroad could create delays at interchange if the locomotives from nonparticipating railroads also are offered in interchange to Class I railroads to haul covered trains. The delay could occur if the nonparticipating railroad delivers a locomotive in interchange that either lacks an EEBA of any kind or that has an EEBA that does not conform to the type specified under the Class I railroad's general EEBA program under proposed § 227.211.

EEBAs also may be temporarily mounted in the locomotive cab as the train containing a shipment of PIH material is made up. Using this option would help to minimize the number of EEBAs required, while ensuring that each consist containing a PIH material is appropriately equipped. It would also allow the railroad to cater efficiently to differing crew sizes. Drawbacks with this method include increased management burden for the initial issue of EEBAs to the consist, increased management burden for tracking/recovery, increased management burden for item inspection and maintenance, and unavailability of customized EEBAs.

FRA recognizes that these are but a few of the numerous options for the provision of EEBAs, each having its own costs and benefits. Any of these options (or combination of these options), including options that have not been discussed above, is acceptable under this proposed rule, as long as a suitable EEBA is provided by the railroad to each covered employee while they are in a locomotive cab of a covered train and the transportation of covered hazardous materials via rail is not unduly delayed.

VI. Information and Recommendations Provided by the Railroad Industry and Railroad Labor Organizations After the Study

As previously mentioned, representatives of both the railroad industry and railroad labor cooperated with the FRA-sponsored study on the feasibility of providing EEBAs to train crews, the report of which was published in May 2009. AAR, UTU,[21] and BLET also exchanged information and ideas with FRA on issues related to this rulemaking.

In July 2009, prior to the publication of the NPRM, representatives of AAR briefed FRA with information on AAR's exploration of alternative ways by which the rulemaking mandate under section 413 of the RSIA might be carried out. AAR has also offered recommendations to FRA on issues related to this rulemaking, including the type of EEBA and the mode of providing it that AAR thought would satisfy the statutory mandate. Subsequently, in a letter to FRA dated January 13, 2010, AAR encouraged FRA to incorporate by reference a draft specification establishing guidelines for: (1) vendors of EEBAs that would be used by Class I railroads; (2) mounting EEBAs on locomotives; and (3) requiring training support.

FRA considered incorporating by reference a finalized version of AAR's specification; however, FRA has ultimately decided not to do so. Many comments raised questions about the details of the specification, and FRA believes this proposed rule provides a better standard for efficiently complying

[21] UTU is now part of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART).

with the RSIA mandate. Of course, AAR is free to rely on a final specification to normalize EEBAs among Class I railroads, as long as the specification complies with the requirements in subpart C.

Additionally, in the course of drafting the NPRM, FRA representatives met with UTU and BLET representatives on March 31, 2010, who briefed FRA on issues related to the provision of EEBAs. AAR was also in attendance at this meeting. UTU felt that EEBAs should be ''placed on all occupied locomotives which operate over a corridor where freight trains carry hazardous materials that pose an inhalation hazard in the event of a release.'' Under UTU's recommendation, each occupied locomotive would be required to have working EEBAs—even if the occupied locomotive is not part of a train carrying asphyxiants or PIH materials—as long the locomotive is operating over a rail line that carries such materials.

During the March 31, 2010, meeting, UTU indicated that it opposed issuing EEBAs as personal items. UTU felt that adding an additional item to each train employee's required personal equipment would unnecessarily burden crewmembers. UTU was concerned with not only the added weight, but also the extra responsibility for care and maintenance that would fall to train employees in the event that EEBAs are provided as personal equipment. It contended that railroads are in a better position than the employees to maintain the devices and stated that treating EEBAs as personal equipment would not satisfy the intent of Congress in passing the legislation.

Finally, UTU stressed that there must be sufficient training of train employees in the use of EEBAs. Such training would ensure that train employees would know how to use EEBAs if presented with a situation in the field where their use was required. UTU expressed a strong desire for regular, hands-on training with devices selected by the railroads to achieve these ends.

VII. Public Comment on the NPRM, With FRA's Response

A. Introduction

FRA received 11 sets of comments on the 2010 NPRM from 12 different entities (BLET and UTU jointly submitted comments), covering a broad spectrum of interests which resulted in a number of revisions to this proposed rule. These commenters included the railroad industry, labor organizations, professional associations, respirator manufacturers, Federal agencies, and concerned individuals. In updating the proposed rule, FRA has considered each issue raised by the commenters, and it addresses those issues in this section.

B. Comments on the Preamble, With FRA's Response

NIOSH comments regarding footnote 4 in the preamble to the NPRM, which states that ''[t]he proposed NIOSH regulations would be applicable to mine workers, but NIOSH provides that once the final rule is published it would be used to certify respirators in other work environments where escape respirators are supplied.'' NIOSH suggests that the above-noted wording implies that the existing regulations only apply to certification of escape respirators for the mining work environment. However, the respirators certified for use under the existing regulations have been and continue to be used to certify respirators for use in other work environments where escape respirators are supplied. As the NIOSH rulemaking in question has been finalized, FRA has removed the footnote to avoid confusion.

Additionally, NIOSH recommends clarifying the preamble discussion on the type and performance level of protection to be provided by the required head and neck coverage (*e.g.,* impact or penetration resistance, lens abrasion resistance, eye irritation). In the NPRM, there are several places where these issues were addressed. *See* 76 FR 61392, 61395, and 61403 (Oct. 5, 2010). FRA understands Congress's primary intent in requiring protection of the head and neck of covered employees is to ensure that the eyes, noses, and throats of the employees are protected from exposure to the irritant properties of any contaminants. Because the EEBA standard is, to the degree possible, a performance standard that sets the performance criteria for EEBAs for use in emergency escape situations, FRA does not seek to prescribe specific respirator performance measures—with the exception of breathing capacity—and/or specific respirator type. FRA has therefore modified its discussion in the Section-by-Section Analysis to state clearly FRA's intent of providing performance criteria that must be met by the head and neck protection language—the prevention of eye, nose, and throat irritation—when considering a specific type of respirator.

NIOSH also recommends that the NIOSH-certified closed-circuit escape respirators, which use a chemical source for oxygen (*e.g.,* Draeger OXY K plus S and CSE SR–100 units), be mentioned in the preamble to the final rule as an atmosphere-supplying SCBA that satisfies the protection requirements of the regulation. FRA takes the position that any respirator that meets the criteria established under proposed § 227.203 would be acceptable. The descriptions in the preamble were not intended to be an exhaustive explanation of the types of respirator technology available, only to describe some of them for illustrative purposes.

An individual commenter states that FRA's own data suggest the rule appears to be unnecessary, costly, and likely inimical to the safety of train crews. He contends that, considering the low fatality rate documented for hazardous material releases, FRA should put its resources in continuing to minimize the number and consequence of rail accidents involving hazardous materials. In response to this comment, FRA notes that the RSIA mandates that the Secretary adopt regulations requiring railroads to provide EEBAs for train crews in occupying locomotive cabs of any freight train transporting a hazardous material in commerce that would present an inhalation hazard in the event of a release. Given this statutory mandate, FRA is proposing a rule that not only considers the costs, but also provides a mechanism to enhance safety for railroad employees transporting hazardous materials presenting an inhalation hazard if a release occurs. Moreover, it is important to recognize that FRA has recently undertaken a number of rulemaking initiatives in a variety of disciplines, including re-engineering of tank cars (in cooperation with PHMSA), PTC, and amendments to operating rules, all designed to improve the safety of railroad operations, and thus reduce the rate of incidents, including those involving hazardous materials. As with all complex systems, however, there are occasions when failures do occur. This proposed rule would provide an additional element of protection for covered employees should an accident with a PIH release occur in the future.

The individual commenter also states that, in his experience with protective breathing gear, it is a liability unless employees are highly trained in using the devices. The commenter raises the concern that crews may waste precious time in donning EEBAs when the best course of action is to exit the predicament. Additionally, the commenter is concerned that such gear may result in increased panic by reducing situational awareness when presented with the stress of an accident. FRA has considered these issues while drafting this proposed regulation and expects that the time taken to don this gear will be minimal. In FRA's view, the use of an EEBA can enhance a covered employee's opportunity to escape a

potentially toxic environment that, absent these devices, they would be unable to do without an adverse outcome. The Macdona chlorine release reveals that the conductor, who died, had initially escaped the locomotive cab, but while trying to walk away from the accident scene, was exposed to chlorine to the degree that it overcame him. In that case, had an EEBA been present and used by the conductor, he may have had sufficient time and breathable air to get far enough away from the chlorine release to survive.

BLET and UTU (jointly referred to as Labor) comment that FRA's NPRM understates the benefits of the proposed regulation. Labor contends that the value of preventing injuries necessarily requires a subjective assignment of casualties to several categories of an ''Abbreviated Injury Scale,'' the most severe of which is a critical injury. A critical injury is valued at 76.25 percent of the cost of a statistical human life. Labor then posits that if only 2 percent (14) of the 660 predictable inhalation casualties identified by FRA are deemed critical, then the benefit of the proposed rule would roughly equal the $73,900,000 cost that FRA associated with the 2010 NPRM if railroads permanently equip locomotives with open-circuit type EEBAs.

While Labor's comment correctly asserts that there were 660 inhalation casualties over the 10-year period presented in the 2010 NPRM, FRA reanalyzed that data to determine the relevance of these casualties to the issue of transporting hazardous materials that would pose an inhalation hazard in the event of a catastrophic release. FRA's analysis matched HMIS [22] incident data, maintained by PHMSA, with FRA's part 225 injury and illness records over the 2010 NPRM's 10-year period. The data were further filtered by removing RCOs and actions where the employee was walking, adjusting things, throwing switches, coupling air hoses, etc.—*i.e.,* not in the cab. FRA then removed events that were not related to the inhalation of a chemical (*e.g.,* burned, chair/seat, assaulted by another, splashed, or dripped). Of the remaining incidents, only five casualties occurred on a mainline track or a siding that would have fallen within the category of events that this proposed rule seeks to protect against. Of those incidents, two casualties arose out the Macdona collision, and two casualties arose out of the Graniteville collision, both of which are discussed in the preamble.

Additionally, Labor takes issue with the cost-benefit discussion in the 2010 NPRM preamble because it contends that FRA implies it was pushed into implementing this rule by a Congressional mandate and ''appears to be apologizing for implementing this rule because it might, in their analysis, cost the railroads money.'' As a result, Labor asks that the preamble be edited to remove the following text ''[a]lthough the costs associated with implementation of the proposed rule would likely exceed the benefits, FRA is constrained by the requirements of RSIA.'' *See* 75 FR 61398. FRA is leaving the statement in this proposed rule as it appears in the 2010 NPRM. The analysis that FRA undertook was not intended to diminish the real and significant tragedies that occurred. FRA must ensure that the economic analysis is done in as objective a manner as possible, and it has a duty to inform the public when a rule has a negative cost-benefit ratio.

C. Comments Recommending Additional Provisions, With FRA's Responses

Draeger Safety (Draeger) comments that the closed-circuit SCSR is the appropriate respirator that should be used for railroads. Draeger notes that SCSRs have been used extensively in the United States and internationally by the mining industry and on oil drilling platforms. Additionally, Draeger states that SCSRs are used by the U.S. Navy and by railway operations in Switzerland and Austria. SCSRs are currently approved by NIOSH under 42 CFR part 84. While the device mentioned in Draeger's comments may be the one selected by a railroad it is not the only type that will meet the requirements in the RSIA mandate or in the criteria laid out by FRA.

Chemical Facility Security News suggests that FRA should include a requirement to place chemical detectors and alarms on all asphyxiant gas and PIH railcars that would notify train crews when there is a leak that might require them to don their EEBAs. The commenter asserts that such detectors or alarms also would benefit those first responders at the scene. Additionally, Chemical Facility Security News argues that any usage requirements for EEBAs should also require a personal detector for the chemicals involved. Chemical Facility Security News states that this is the only way that train crewmembers will know if they have moved to a safe location that is suitable for removing an EEBA.

Under this proposed rule, railroads would be required to provide instruction for covered employees on the proper evacuation procedures and use of the EEBAs. Employees must also be instructed to evacuate the locomotive cab immediately during a release of a hazardous material that would present an inhalation hazard.

FRA has not included a provision in this proposed rule mandating that railroads provide chemical detectors or alarms for several reasons. First, as more than 20 listed PIH chemicals are transported by rail, it would not be possible to provide a single chemical detection device that would have the capability of detecting the full range of PIH materials (or asphyxiants) that may be encountered. According to the Chemical Facility Security News blog, ''many of the covered chemicals cannot be detected by the human senses.'' In fact, even the most innovative chemical detection devices are limited to the detection of only a handful of toxic industrial chemicals. In addition, chemical detection devices would only be reliable when the wearer is positioned downwind of the toxic vapor cloud and external to the locomotive cab. Also, it should be noted that if the concentration of the PIH material is high enough to create an IDLH environment, then the detection device may not provide sufficient time to take protective measures.

The acquisition and use of the devices would also be very expensive, especially considering the purchasing, maintenance (including factory maintenance and calibration), and training costs, and FRA does not believe it would provide additional protection for locomotive cab employees. FRA believes that in an emergency situation, such as an accidental release, covered employees should be focused on donning the EEBA and safely evacuating the locomotive instead of looking for a detection device to decide whether donning the EEBA and evacuating the locomotive is necessary.

Chemical Facility Security News also comments that there should be a serious look into whether a similar requirement should be provided for other transportation workers because trucks may haul similar chemicals and are involved in more accidents per mile than their railroad counterparts. FRA's regulatory authority is limited to establishing safety regulations for the railroad industry and, thus, this comment is beyond FRA's regulatory authority to implement.

[22] PHMSA, the Federal agency within DOT charged with the safe and secure movement of almost 1 million daily shipments of hazardous materials by all modes of transportation, developed the HMIS. The system maintains and provides access to comprehensive information on hazardous materials incidents, exemptions and approvals, enforcement actions, and other elements that support the regulatory program.

ASLRRA comments address concerns about the financial impact of the RSIA mandate on the small railroad industry, which it contends is already stressed by the cumulative effect of other regulations and a lack of pricing power. ASLRRA states that this proposed regulation will not enhance safety for small railroads, since there have not been any fatalities, to its knowledge, arising out of the shipment of PIH materials by Class III railroads. Indeed, ASLRRA is concerned that the new requirements will reduce safety by forcing small railroads to take money from their capital budgets that would have been used for track maintenance and other infrastructure improvements. Separately, it notes that the effect of the proposed rule could be to shift transportation of PIH materials from rail lines to the nation's roads and highways, where the potential for catastrophic interaction with the broader public is much greater. As a result, ALSRRA requests that FRA seek an exemption from Congress for Class III railroads that handle PIH traffic on their own lines where train speeds do not exceed 30 miles per hour.

FRA understands ALSRRA's concerns, but the agency is constrained by section 413 of the RSIA. Unlike with PTC, Congress did not carve out an exemption for Class II and Class III railroads from the statutory requirement. *See* section 104 of the RSIA. Instead, Congress used broad language that covers any railroad carrier transporting hazardous materials that would pose an inhalation hazard in the event of release. In light of this language, FRA is constrained from instituting an exception for Class III railroads without Congressional action. Notwithstanding these constraints, FRA has proposed measures to limit the costs for railroads. In particular, FRA has proposed allowing railroads to pursue the most cost-effective way to provide EEBA in accordance with the statutory and regulatory requirements. Additionally, small railroads could consider pooling resources wherever possible for requirements such as periodic training. Moreover, Class III railroads will have a full 18 months from the effective date of the rule before they will be expected to be in compliance, which allows for the ''start-up'' costs related to compliance (*e.g.,* acquiring respirators and establishing training programs) to be spread out over a period of time.

Labor raises concerns about placards and manifest accuracy. Labor contends that it would defeat Congressional intent in requiring the provision of the EEBAs if train crews are not aware that the freight train on which they are working is transporting or will encounter trains that are transporting materials that could pose an inhalation hazard if released. It asserts that train manifests must be 100-percent accurate to ensure that the train crew understands the need to have EEBAs on the train. As a result, Labor argues that the absence of clerical employees to verify the accuracy of train manifests could endanger the safety of operating employees as well as surrounding communities where PIH materials are transported. Further, Labor suggests that operating crews and shop employees who prepare locomotive consists for service should receive regular job briefings on the requirements for EEBAs in locomotive cabs.

With respect to Labor's concerns, FRA notes that, while placard and manifest accuracy are not included in the RSIA mandate, PHMSA already has regulations governing the accuracy of shipping papers, including manifests, markings, labels, and placards, *see* 49 CFR part 172, subparts C, D, E, and F, and the accuracy of train consists, *see* 49 CFR 174.26. On the issue of required job safety briefings, FRA has proposed training standards in § 227.209, Railroad's program of instruction on EEBAs, which contains requirements for teaching the safe provision and use of EEBAs. Proposed § 227.209 requires that covered employees be instructed on the types of products that are PIH materials. This instruction would be in addition to the initial and recurrent hazardous materials training required of railroad crewmembers and other hazardous materials employees in 49 CFR part 172 subpart H. Given these training requirements along with other regulations that could cover the risk associated with the transportation of PIH material such as railroad safety risk reduction programs in 49 CFR parts 270 and 271, this proposed rule does not require regular safety briefings.

D. Section-Specific Public Comments, With FRA's Response

FRA did not receive any comments on the proposed changes to the sections in part 227, subparts A and B; did not receive comments on proposed §§ 227.213 and 227.215 in subpart C; and did not receive any comments regarding the amendment to part 227, appendix G.

1. Comments on Proposed § 227.201(a)(1), With FRA's Response

FRA received a number of comments on proposed § 227.201(a)(1). While FRA continues to propose most of this provision without change, as discussed in detail below, FRA has modified the paragraph in this SNPRM by removing simple ''asphyxiants'' from the text of the regulation that identifies the items being transported that would trigger the requirement for providing EEBAs to covered employees. As modified, § 227.201(a)(1) would require the provision of EEBAs to each train employee, direct supervisor of a train employee, deadheading employee, and any other employee designated by the railroad when any of the employees is required to work in or occupy the locomotive cab of a covered train that is transporting a PIH material, which would include PIH material asphyxiants.

NIOSH suggests that FRA could require railroads to place EEBAs strategically at various locations in rail yards (*e.g.,* maintenance shop, office, staging areas). This would expand protection to employees who are conducting local area/yard work with trains carrying hazardous materials. NIOSH states that placing EEBAs in the rail yard would allow workers to avoid approaching a locomotive that may be involved in an incident to obtain an EEBA.

The RSIA established a limited statutory mandate to promulgate regulations that require railroads to provide EEBAs ''for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release.'' If Congress had wanted the Secretary to promulgate expansive regulations covering areas outside the locomotive cab, then it would have chosen different language that could be read to cover areas other than locomotive cabs, including rail yards. Since Congress did not do so, FRA does not propose to include requiring the provision of EEBAs at strategically placed locations in rail yards. However, the rule in no way prohibits railroads from voluntarily locating EEBAs in the rail yards to allow employees to protect themselves in the event of a release within a rail yard.

Draeger suggests that §§ 227.1 and 227.201(a)(1) should be changed to cover any employee located in an occupied space of an in-service freight train. Draeger also raises the alternative of requiring that covered employees be provided with belts with EEBAs attached to them so that an EEBA will be available at all times. As noted in the preceding paragraph regarding NIOSH's suggestion of placing EEBAs strategically throughout rail yards, FRA believes the current proposed language in this section appropriately complies with the mandate established by the

RSIA. Additionally, given that locomotive cabs are the only ''occupied space(s)'' on freight trains, FRA views this suggested change as redundant.

Labor suggests amending proposed § 227.201(a)(1) to require every train employee who is required to operate a freight train, including local freight and transfer service, that may pass, follow, or operate on tracks adjacent to other trains that are carrying hazardous materials or residue in their manifest, must be provided with quick access to an emergency escape breathing apparatus. FRA declines to adopt this proposal for two reasons. First, as noted above, the RSIA is clear where EEBAs are required (*i.e.,* ''in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release.''). The RSIA does not establish a broad mandate for the provision of EEBAs to every train employee who is required to operate a freight train that may pass, follow, or operate on tracks adjacent to other trains that are carrying hazardous materials or residue in their manifest. Second, the language proposed by Labor could be read in a manner that would actually reduce the protection afforded to other employees who also may be present in the locomotive cab during an emergency situation. Under Labor's proposal, only employees who are ''operating'' the train would be covered instead of all occupants of the cab. This proposal appears to exclude certain railroad employees located in the locomotive cab as well as employees deadheading in a following unit since neither would be ''operating'' the train.

Labor also recommends amending proposed § 227.201(a)(1) to make clear that an RCO crewmember, who is riding in the locomotive cab of a freight train moving asphyxiants (presumably, this comment would apply to PIH materials as well), must be provided an EEBA. FRA addressed this issue in the preamble to the 2010 NPRM and does not see a need to amend the proposal in this SNPRM. FRA considered exempting RCOs who are not in the cab of a locomotive during the movement of an in-service freight train transporting a PIH material. FRA ultimately decided that a separate exclusion was unnecessary for RCOs conducting movements from the ground because an RCO is primarily on the ground when performing switching operations, which are not considered freight train movements under this part. As a result, railroads would not be required to provide EEBAs in the locomotive cab in such a circumstance. However, at the point that switching operations have ceased, and the crew is ready to leave the yard with an in-service freight train that is transporting a PIH material, FRA would expect the RCO to occupy the cab and ride in the locomotive from point A to point B. In the event that the RCO enters the locomotive cab for this type of movement, the rationale for excluding RCOs no longer exists, and is the railroad must provide the RCO with an EEBA.

AAR asserts in its comments that the proposed regulations requiring the provision of EEBAs in locomotive cabs should not apply to those asphyxiants that are not PIH materials. According to AAR, FRA's 2010 NPRM interpreted the RSIA in an overly broad manner when it proposed to apply the EEBA requirement to asphyxiants, rather than just PIH materials. AAR notes that there are a number of substances that would cause asphyxiation if a person were inhaling that substance and no oxygen, but Congress did not indicate its intent to require EEBAs for all such substances. AAR argues that FRA must consider this regulation in light of the Macdona and Graniteville accidents, which spurred Congressional action. Macdona and Graniteville both involved chlorine, a PIH material. Moreover, AAR notes that ''there is no record of any rail-related fatality attributable to the inhalation of non-PIH substances.'' Given these factors, AAR asserts that Congress did not intend to cover asphyxiants.

Additionally, relying on FRA's finding that the costs of the rulemaking exceed the benefits, AAR argues that FRA unjustifiably increases the burden imposed on industry by including asphyxiants in the proposed regulation that are not classified as PIH materials. AAR asserts that there are approximately 100,000 shipments of PIH materials per year, while there are approximately 200,000 shipments of asphyxiants that are not classified as PIH materials. Thus, according to AAR non-PIH material asphyxiants should be excluded from the regulation because they substantially add to the costs of this regulation without providing a benefit that exceeds such costs. As a result, AAR contends that FRA does not have an economic justification for exercising its discretion in manner that would include asphyxiants in the regulation.

Congress, in establishing the regulatory mandate in the RSIA, stated that EEBAs must be provided ''for all crewmembers in locomotive cabs on freight trains carrying *hazardous materials that would pose an inhalation hazard* in the event of release.'' (Emphasis added). However, Congress did not define the term ''hazardous materials that would pose an inhalation hazard'' or provide examples that would elucidate its intended meaning. Accordingly, FRA must define the meaning of that term based on FRA's experience in regulating hazardous materials transported by rail and any other relevant information available to the agency.

There is no dispute that ''hazardous materials that would pose an inhalation hazard'' includes those products that fit within the PHMSA's definition of ''materials poisonous by inhalation,'' otherwise known as PIH materials. AAR appears to recognize that such materials were intended to be covered when Congress passed the RSIA. There has been substantial discussion about whether the term used by Congress includes simple asphyxiants. Because Congress did not use a commonly used and easily understood term with a specific definition, such as PIH materials, there seemed to be support for including asphyxiants as a category of products for which an EEBA must be provided to a crewmember occupying a locomotive on an in-service freight train. Thus, in the 2010 NPRM, FRA included asphyxiants as a category of products encapsulated within the term ''hazardous materials that would pose an inhalation hazard.'' The inclusion of asphyxiants was based on the concern that simple asphyxiants, such as CO_2 and LPG, could displace oxygen in a manner that would result in IDLH environments.

After reviewing this issue again and analyzing the comments received, however, FRA finds that the term ''hazardous materials that would pose an inhalation hazard'' is best understood as not including simple asphyxiants and has removed the term ''asphyxiants'' from the requirements of this proposed rule.

As noted by AAR, neither the Graniteville nor Macdona accidents, which appeared to spur Congress to action, involved a simple asphyxiant. Further, while there are some simple asphyxiants, such as LPG and CO_2, that are shipped in significant quantities, FRA finds that simple asphyxiants do not pose a substantial risk requiring the provision of an EEBA for a covered employee occupying the locomotive cab to escape. A review of LPG releases shows that asphyxiation has not been a substantial risk. Moreover, in the known cases of derailments involving LPG, the resultant fire generally consumes the gas thus minimizing the risk of asphyxiation from the gas itself. Therefore, while there have been railroad employee fatalities associated with catastrophic LPG releases, those

fatalities resulted from the LPG igniting rather than causing asphyxiation. FRA is unaware of any fatalities of railroad employees caused by asphyxiation in the event of an LPG release. CO_2 similarly presents limited risk related to asphyxiation in the context of a rail accident. As with LPG releases, FRA is not aware of a single asphyxiation-related railroad employee fatality that was caused by a catastrophic release of CO_2.

Additionally, FRA is mindful of the potential added costs that may fall to railroads that transport asphyxiants. Including asphyxiants within the requirements of this regulation would approximately triple the number of shipments where crewmembers must be provided with EEBAs without a resulting safety benefit. Regardless of how railroads intend to comply with the regulation's requirements, the inclusion of asphyxiants would require railroads to manage EEBAs on over triple the number of shipments when compared to requiring the provision of EEBAs for shipments of PIH materials alone.

Given all of these factors, FRA concluded it was unlikely that Congress intended ''hazardous materials that would pose an inhalation hazard'' to include non-PIH material asphyxiants, as such asphyxiants have not been shown to present sufficient risk of inhalation injuries or death to require the provision of EEBAs in the railroad environment. Accordingly, this proposed rule has been modified to reflect this determination; however, FRA is seeking additional comments on whether, and for what reasons, asphyxiants should be included. FRA will review any comments, will continue to monitor incidents involving these materials, and reserves the right to revisit this decision and to include them in a final rule.

2. Comments on Proposed § 227.201(a)(2), With FRA's Response

Based on comments from Labor on proposed § 227.201(a)(2), FRA has slightly modified this proposed provision to clarify that any employee covered by the proposed rule must be provided an EEBA in the locomotive cab that they are occupying. Additionally, as discussed above, FRA has removed any reference to asphyxiants. Further, the provision, as modified in this proposed rule, prohibits railroads from using locomotives in freight trains transporting a PIH material unless all the train employees, supervisors of train employees in the locomotive cab, deadheading employees, and any other employees, identified by the railroad in writing, have access to EEBAs.

While Labor agrees with FRA's decision to include deadheading employees in this provision, they note that deadheading employees are likely to be riding in the trailing units of a train's consist in order to minimize the risk that their presence will be a distraction to the operating crew. As a result, Labor urges FRA to amend proposed § 227.201(a)(2) to clarify that an employee in ''any'' locomotive cab of the train must have access to an EEBA. Additionally, Labor suggests deleting ''in an in-service freight train'' from § 227.201(a)(2) and replacing it with ''on a freight train.''

In response to this comment, FRA has modified proposed § 227.201(a)(2) to remove ''while in the cab of the locomotive of the train'' and replace it with, ''while occupying a locomotive cab of the train.'' FRA finds that this language better reflects FRA's intent, *i.e.,* that each train employee, supervisor of a train employee, deadheading employee, and any other persons designated by the railroad, on an in-service freight train transporting a PIH material must be provided an EEBA in the locomotive cab that they are occupying. FRA is not, however, amending proposed § 227.201(a)(2) to remove ''in an in-service freight train.'' While Labor does not explain the rationale for this suggested change, FRA believes that such a change could potentially be interpreted to require EEBAs on freight trains at all times, even if not in service. This would expand the regulation beyond the statutory mandate, which only requires EEBAs be provided when a freight train is transporting a hazardous material that would pose an inhalation hazard in the event of a release, without significantly adding to safety.

3. Comments on Proposed § 227.201(b), With FRA's Response

FRA received comments on proposed § 227.201(b) from Labor and AAR. As discussed above, FRA has removed any reference to asphyxiants.

Labor contends that there is no reasonable basis for the exception. In its view, section 413 of the RSIA indicates that Congress did not intend for such an exception. It argues that the law requires the Secretary to establish regulations requiring railroads to provide EEBAs to train crewmembers in the locomotive whenever sufficient quantities of the hazardous materials are being transported, and states that ''regardless of what type of rail car is being used, if a release poses an inhalation hazard, then EEBAs are required by the clear language of the statute.''

The RSIA establishes a requirement ''to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crew members in locomotive cabs on freight trains carrying hazardous materials that would pose *an inhalation* hazard in the event of release . . .'' (Emphasis added). The italicized words were omitted from Labor's comment, but they are significant in the context of the subject being discussed. FRA considered whether to require the provision of EEBAs to railroad employees on trains that transport intermodal shipments of PIH materials prior to publishing the NPRM. However, FRA excluded intermodal shipments from the requirements in this section for two primary reasons. First, railroads generally do not accept PIH materials in intermodal shipments. Second, the inhalation risk related to small quantities of covered substances in the event of a release from an intermodal shipment is relatively low based on the quantities and packaging of materials carried by such trains. Given these factors, there is not a substantial risk that the release of all or most of an intermodal shipment of a PIH material would present a risk necessitating an EEBA. Therefore, FRA has decided not to change the proposed language concerning intermodal shipments in § 227.201(b)(1).

One issue that was not raised in § 227.201(b) of the 2010 NPRM was whether there would be a limited exception for foreign operations. AAR notes that a provision of FRA's alcohol and drug regulation, 49 CFR 219.3(c), exempts limited foreign operations from some of the requirements of that regulation. The exemption in § 219.3(c) applies to foreign railroad operations extending up to 10 miles in the United States. AAR suggests that FRA should include the same type of exemption in proposed part 227, subpart C. FRA does not find such an exemption reasonable but welcomes additional comments on whether it should be included.

4. Comments on Proposed § 227.203(b), With FRA's Response

FRA received numerous comments on proposed § 227.203(b), which would have required a railroad to select a respirator type that is certified for escape-only purposes by NIOSH pursuant to 49 CFR part 84 or ISO pursuant to ISO 23269–1:2008. Most of the comments pertained to FRA's inclusion of devices that could be built using a standard other than the one established by NIOSH, specifically, whether it is appropriate to allow

reliance on the ISO standard. As a result of these comments, FRA has edited the paragraph in the proposed rule to correct the misstatement that ISO respirators are certified. However, FRA continues to propose that railroads be allowed to select EEBAs that comply with ISO standards as long as the devices have a minimum breathing capacity of 15 minutes. In addition, FRA has added two additional international standards, BS EN 13794:2002 E, ''Respiratory Protective Devices—Self-Contained, Closed-Circuit Breathing Apparatus for Escape—Requirements, Testing, Marking (November 2002),'' and BS EN 1146:2005: E, ''Respiratory Protective Devices—Self-Contained, Open-Circuit Compressed Air Breathing Apparatus Incorporating a Hood for Escape—Requirements, Testing, Marking (September 2005).'' Further explanation of FRA's decision is provided in the following discussion.

NIOSH suggests that FRA should modify proposed § 227.203(b) to prohibit ISO-compliant respirators in lieu of NIOSH certification because it ''may lead to confusion in the regulated community.'' FRA understands that NIOSH is the only entity in the United States that certifies respirators. However, FRA finds that permitting respirators compliant with other standards, such as ISO and BS EN, will permit railroads to select from a broader range of devices using different technologies that afford an equivalent level of protection as the NIOSH-certified respirators. Accordingly, FRA proposes to allow for reliance on the ISO or BS EN standards.

Scott Health and Safety Comments (Scott) and the ISEA raise concerns about FRA's use of the term ''certified'' in proposed § 227.203(b) as it relates to ISO standards. As proposed in the 2010 NPRM, the paragraph stated that the railroad must ensure that the type of respirator selected has been certified by NIOSH pursuant to 42 CFR part 84 or by the ISO pursuant to ISO 23269–1:2008. Scott requests clarification on the following discrepancies between the proposed alternate certification paths (NIOSH vs. ISO) and the alternate standards (42 CFR part 84 vs. ISO 23269–1:2008). It notes that ''while NIOSH provides a clear and effective certification program, it is not clear how respirators would be certified according to ISO standards and who would provide oversight to ensure these standards were maintained.'' Similarly, the ISEA states that ISO develops standards, but does not issue certifications. As a result, any claim that a respirator complies with an ISO standard must rely on testing, and any attestation of conformity to the ISO standard must be issued by the manufacturer of the device or a third-party certification organization. Therefore, ISEA asserts that, if FRA plans on accepting the provision of respirators manufactured to the voluntary ISO standard, then it must clearly state whether independent certification is required or whether it will accept the manufacturer's declaration of conformity to the standard.

Scott and ISEA raise valid points on the use of the term ''certification.'' FRA understands that ISO does not certify devices as NIOSH does. Instead, it establishes standards that the manufacturer of the device must meet to declare its device compliant with the ISO standard. Therefore, clarification is needed to avoid confusion in the marketplace and to ensure that the devices provided by the railroads pursuant to this regulation comply with its terms. FRA has modified the proposed language in § 227.203(b) to state that the type of respirator selected by a railroad must be certified for an escape-only purpose by NIOSH, pursuant to 49 CFR part 84, or must be declared by the manufacturer, based on verifiable testing by the manufacturer or an independent third party, to meet the equivalent standard ISO 23269–1:2008 and have a minimum breathing capacity of at least 15 minutes, as specified in proposed § 227.203(d)(1).

Additionally, Scott and ISEA raise the question that if both NIOSH and ISO certification options are acceptable, then how will FRA's regulation and AAR's specification reconcile specific differences between the standards? As an example, Scott cites to 42 CFR part 84, which specifies a maximum CO_2 inhalation of 0.5 percent, or 1.5 percent for escape mouth bit devices, and compares it to ISO 23269–1:2008, which allows for CO_2 levels of 3 percent. ISEA believes that FRA must clarify the difference in the NIOSH and ISO requirements and any required variance from either standard.

FRA does not find it necessary to clarify the differences between the NIOSH and ISO requirements. The NIOSH and ISO requirements are explicitly laid out in their respective standards. *See* 42 CFR part 84 and ISO 23269–1:2008. FRA's concern in establishing this requirement is not to compare and contrast the respective standards, but to ensure that the respirators chosen by a railroad comply with this regulation by meeting an established minimum standard that will facilitate the escape of train employees and other occupants of a locomotive cab from a hazardous material posing an inhalation hazard should the need arise. FRA would not view piecemeal compliance with portions of the NIOSH standard, portions of the ISO standard, or portions of the EN standards as meeting the proposed regulatory requirements laid out in part 227, subpart C. However, if the type of device selected by the railroad meets the entire regimen of criteria for either the NIOSH, the ISO, or the applicable EN standard, and complies with the minimum breathing time requirements specified in proposed § 227.203(d)(1), then FRA would consider the device acceptable under the regulation.

Lastly, Scott requests clarification on whether railroads are exempt from the OSHA requirement found in 29 CFR 1910.134(d)(1)(ii), which requires employers to select a NIOSH-certified respirator. The Occupational Safety and Health Act authorizes the Secretary of Labor to promulgate standards to provide safe and healthful employment and places of employment. 29 U.S.C. 652(8), 653(b)(1), 655. However, once FRA exercises its statutory authority to prescribe standards or regulations covering a specific hazard or practice affecting the occupational health of railroad employees, as it proposes to do here, FRA's regulation of the specific area ousts any OSHA requirements covering the same area. *See* 29 U.S.C. 653(b)(1). An example would be FRA's regulations in part 227, subpart B, addressing occupational noise exposure for railroad operating employees, which covers noise exposure and hearing conservation for railroad operating employees whose primary exposure to occupational noise is in the cab of a locomotive. All other railroad employees who are exposed to occupational noise are covered by OSHA. The same holds true with respect to the provision of EEBAs by railroads. Those EEBAs that are provided pursuant to this proposed regulation would have to comply with the requirements established in part 227, subpart C. However, OSHA's regulations on respirators may be applicable to other areas where railroads provide respirators to their employees.

5. Comments on Proposed § 227.203(c), With FRA's Response

FRA received comments on proposed § 227.203(c) from AAR and Draeger and has deleted that paragraph for the reasons explained below.

In the 2010 NPRM, proposed § 227.203(c) established a requirement that a railroad must document the adequacy of the EEBA. However, AAR notes that proposed § 227.203(b) would

require railroads to use an EEBA certified by NIOSH or the ISO, both of which establish standards for measuring resistance to IDLH atmospheres. Therefore, AAR argues that if the EEBA meets either the NIOSH or ISO standard, no further showing of the adequacy of the EEBA should be necessary. As a result, it suggests that proposed § 227.203(c) be deleted. FRA agrees and has deleted proposed § 227.203(c) since the essential information that FRA seeks to require is captured by complying with either the NIOSH, ISO, or EN standard under § 227.203(b). In light of the deletion, FRA has re-designated § 227.203(d) as § 227.203(c) in this proposed rule.

While the § 227.203(c) proposed in the 2010 NPRM is being removed, FRA did receive additional comment from Draeger on this paragraph which requires discussion. Draeger contends that, except for the requirements in § 227.203(d), the proposed regulation does not establish any specific requirements concerning the EEBA's performance. Therefore, Draeger states that the proposal fails to provide the necessary regulatory text that will ensure the EEBA type chosen by a railroad will meet the intended application. FRA considers the proposed provisions of § 227.203(b) along with the specific items identified in proposed § 227.203(d) to describe adequately the necessary performance characteristics of the EEBAs.

Draeger also raises a number of issues about AAR specification M–1005 in its comments on § 227.203(c). It is concerned that a number of the factors laid out in the specification are typically not evaluated by NIOSH or ISO for industrial respirators that are air-supplied escape breathing apparatus. These include the specification requiring protection against 10,000 ppm of anhydrous ammonia, chlorine, and other toxic inhalation hazards. Draeger suggests identifying other toxic inhalation hazards to better allow manufacturers to evaluate their respirators. Additionally, Draeger suggests that there should be specific information concerning the type of impact and vibration resistances that would be expected in a ''typical locomotive cab in order to test whether a device has the necessary performance factors and structural integrity. Draeger also states in relation to AAR's draft specification that, while vibration testing is a performance requirement for NIOSH certification of closed-circuit escape breathing respirators under 42 CFR part 84, vibration tests are not typically performed on open-circuit breathing apparatus. Finally, Draeger notes that testing on some of the specifications identified cannot be performed by NIOSH or ISO. Therefore, a third-party laboratory would need to perform the testing. Draeger questions whether FRA will accept such information if it is presented by the stakeholder for inspection. Draeger suggests that more information is needed to provide appropriate respirators to the railroad market and requests additional information be included that details more of the performance requirements than in the current specification.

The draft AAR specification is not part of the performance requirements established by FRA. Equipment vendors would need to address questions about those issues to the carriers represented by AAR. However, FRA does note that the ''other toxic inhalation hazards'' that Draeger asks to have identified, can be found in § 227.5, where FRA defines ''PIH material.'' With respect to third-party testing, and additional information detailing performance requirements, FRA believes the standard, as now proposed, provides appropriate performance criteria as long as covered railroad employees are provided at least 15 minutes breathing capacity. Were FRA to propose additional performance criteria, it would be substituting its judgment for that of NIOSH, ISO, or EN subject matter expert entities that have developed the current standards, which FRA declines to do.

6. Comments on Proposed § 227.203(d)(1), With FRA's Response

FRA received numerous comments on proposed § 227.203(d)(1). While FRA has continued to propose this provision without substantive changes, § 227.203(d)(1), as proposed in the 2010 NPRM, has been re-designated in this proposed rule as § 227.203(c)(1) because of the deletion of § 227.203(c), discussed above.

Section 227.203(d)(1) in the 2010 NPRM proposed a requirement that the EEBA be fully charged and contain a minimum of 15 minutes of breathing capacity at the time of the pre-trip inspection that is required by § 227.207(a)(1). NIOSH suggests changing the language to require that EEBAs ''be maintained and the operational readiness verified at the frequency recommended by the manufacturer, using the operational verification procedures, to ensure they contain a minimum breathing capacity of 15 minutes at the time of the pre-trip inspection required under Sec. 227.207(a)(1).'' Because NIOSH does not provide an explanation for the proposed change to the paragraph, FRA is not sure of NIOSH's rationale for objecting to the language in proposed § 227.203(d)(1). The proposed paragraph covers the capabilities of the device selected, not the pre-trip inspection procedures. Therefore, FRA does not view the change suggested by NIOSH as relating to the subject matter of the proposed § 227.203(d)(1) and does not see a reason to amend this paragraph in the manner suggested by NIOSH.

Draeger asks, with respect to proposed § 227.203(d)(1), ''[w]hat is the minimum escape time for a hazardous substance where the atmosphere has not been assessed for substance concentration and dissipation over distance?'' Given these circumstances, it states that an EEBA with a minimum capacity of 15 minutes may not leave time for a crewmember to assist others and to escape to a safe distance away because the circumstances surrounding a catastrophic release would require a higher rate of activity than is normal. Additionally, if an employee has suffered an injury or otherwise become disabled, they would not be able to move fast or, if needed, to move the freight train away from a densely populated location, if that were even possible. Therefore, ''Draeger believes that a device which is capable of providing 30 minutes or more would be the better choice for this application.'' Draeger acknowledges that providing greater breathing capacity in a device will present logistical issues for storage of devices but believes that closed-circuit devices would be a suitable option because they are considerably smaller than comparable open-circuit devices.

It is unclear what Draeger means when it asks about atmospheres that ''have not been assessed for substance concentration and dissipation over distance.'' Each emergency situation is different and will present its own set of difficulties. Therefore, FRA is not sure how Draeger can reach the conclusion that a 15-minute minimum breathing capacity device is inadequate without conducting an analysis of the circumstances surrounding the few incidents of catastrophic breaches to railroad tank cars that resulted in the release of a hazardous material posing an inhalation hazard. Circumstances, such as local geography and weather at the time of the release event, can lead to widely differing circumstances of concentration and distance following an accident. After analyzing the information available to it, which included the input of AAR and Labor, FRA proposed requiring a device that has a minimum breathing capacity of 15

minutes. FRA's proposal is based, in part, on the belief that a 10-minute capacity device would be too limiting, while larger capacity devices would challenge the ability of the railroads to meet the storage requirements of the mandate, given the limited space in the locomotive cab. FRA expects that a 15-minute device will allow railroad employees to address the circumstances alluded to in Draeger's comment. However, it is important to keep in mind that while the 15-minute breathing capacity is a minimum requirement, there is no regulatory restriction that would prohibit railroads from providing a device that has a greater breathing capacity than what is mandated in originally proposed § 227.203(d)(1).

Labor supports FRA's proposal to require EEBAs to have a minimum of 15 minutes of useful life in the worst-case scenario. However, Labor is concerned that ''any reduction in the length of time the EEBA is effective increases the likelihood of casualty or fatality resulting from the release and inhalation of an asphyxiant or PIH material.'' Labor notes that that train employees involved in a release of PIH materials may do two things that could negatively impact the usable length of time for EEBA. Specifically, Labor identifies ''over-breathing'' and the time it takes an employee to don the apparatus as problems that would be expected to reduce the length of effective breathing time of the apparatus, particularly when dealing with a stressful situation such as a catastrophic release of a PIH material. As a result, Labor urges FRA to amend the proposed rule to clarify that each EEBA provided ''must have at least a 15-minute approval rating, meaning that the device must function for at least 15 minutes during 3-mph treadmill tests and 30 minutes for stationary tests.'' *See* 75 FR 61392.

FRA notes that the language cited in Labor's comments was taken from AAR's draft specification, M–1005, upon which FRA specifically requested comments. Based on FRA's review of information that was collected from the investigation of the Macdona and Graniteville collisions, the agency found that a minimum breathing capacity of 15 minutes should be an adequate amount of time for a wearer of an atmosphere-supplying respirator to escape an IDLH atmosphere. Experience has shown that a plume of hazardous material can travel quickly and that the train crew must have adequate breathing time to allow each crew member to move a significant distance from the plume while being protected from breathing the potentially hazardous atmosphere. According to the AAR, investigations and studies by the railroads found that ''the area of destruction following a release is such that 15 minutes is a more than adequate time period to escape the area. Requiring a device with a greater capacity would result in one that is larger and heavier than called for in this specification.'' FRA has decided not to modify the language of proposed § 227.203(d)(2). The change suggested by Labor would put FRA in the position of needing to establish a testing and certification regime to ensure that the devices in use meet the specific language in the rule. FRA does not intend to do this, as the agency does not have the expertise to establish ratings for the devices.

7. Comments on Proposed § 227.203(d)(2), With FRA's Response

FRA also received a number of comments on proposed § 227.203(d)(2), which would have required railroads to select an EEBA that provides a means of protecting an individual's face and neck to facilitate escape. In response to the comments, FRA has amended the proposed paragraph to state that the EEBA should protect the head and neck from the irritating effects of PIH materials. FRA also has removed any reference to asphyxiants for the reasons discussed earlier. Finally, originally proposed § 227.203(d)(2) has been re-designated as § 227.203(c)(2) for the reasons discussed above.

NIOSH suggests specifying that the EEBA selected must provide a means of protecting the individual's head and neck ''from the irritating effects of asphyxiants or PIH materials to facilitate escape.'' In this proposed rule, FRA has amended the originally proposed § 227.203(d)(2) to incorporate the language suggested by NIOSH (excepting that asphyxiants has been deleted). FRA finds this language better reflects the purpose of the head and neck protection.

Draeger and ISEA both raise questions about originally proposed § 227.203(d)(2). Specifically, ISEA questions why face and neck protection is a requirement in proposed § 227.203(d)(2). It suggests that if face and neck protection is an important characteristic for providing additional protection to the wearer beyond protection to the lungs and respiratory system, then the regulation should define as clearly as possible the extent of neck and face coverage that is required as well as how FRA intends to assess whether sufficient coverage has been provided. Similarly, Draeger asks for greater specification regarding what is meant by head and neck protection.

FRA has replaced ''face'' with ''head'' in this proposed rule to match the specific language of section 413 of the RSIA. While Congress did not provide any guidance on the extent of coverage necessary to comply with the statutory mandate, FRA interprets this language to require a device that protects the employee's nose and throat from inhalation and protects the employee's eyes from irritation during an escape from a hazardous atmosphere. This protection can be afforded by a respirator with a face piece or a device with a hood as long as the protection is effective.

Labor contends that originally proposed § 227.203(d)(2) should also require railroads to provide the type of device that is easiest to don. Labor urges FRA to require the use of hooded-type devices rather than full-face masks. Labor relies on FRA's acknowledgement in the preamble to the 2010 NPRM, that hoods are more versatile because they are universally fitting, compensate adequately for eyewear, and allow for facial hair and differing facial features. Additionally, Labor notes that hoods are easier to wear and faster for employees to don, which would allow those employees to assist others who are disoriented or injured.

While FRA recognizes that hoods allow for universality in use and understands that some railroads intend to make use of hooded devices, FRA does not find that requiring hoods in all circumstances is warranted. As a result, it has chosen not to propose mandating hooded devices.

8. Comments on Proposed § 227.205, With FRA's Response

FRA received comments on proposed § 227.205. FRA modified the provision in this SNPRM to delete the word ''asphyxiant,'' but has otherwise not changed the proposed section.

Proposed § 227.205 seeks to establish the minimum requirements for storing EEBAs. The essential requirements are that the storage facility must: (1) where applicable, prevent deformation of the face piece and exhalation valve; (2) protect the device from incidental damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals; (3) provide ready access for each subject employee in the cab; and (4) provide a means to locate the EEBA under adverse conditions, including darkness or disorientation. The section, as proposed, does not establish requirements for distributing EEBA to covered employees.

Labor suggests that proposed § 227.205 should include a requirement

that EEBAs be permanently kept in a storage facility that is mounted in each locomotive cab. Labor's rationale for requiring EEBAs to be permanently mounted in the locomotive cab rests on multiple factors. First, it contends that employees on freight trains traveling in the same corridor on adjacent tracks or following those freight trains that are transporting asphyxiants or PIH material should also be provided EEBAs because they are in danger of an inhalation hazard if the material is released. Labor believes that requiring EEBAs to be permanently mounted in locomotive cabs will result in maximum availability of EEBAs for those employees working on freight trains that are not directly transporting asphyxiants or PIH material. Second, Labor argues that ''employees already are required to carry many items to properly perform their duties and address the circumstances of their job.'' Adding an additional item, it contends, would be overly burdensome to train employees. Third, any option other than permanently mounting EEBAs in the locomotive cabs will result in the railroads passing off the responsibility for ensuring the functionality of EEBAs, which could result in harassment, intimidation, and disciplinary actions against employees who request a delay or postpone the departure of trains to replace or repair EEBAs. Lastly, Labor argues that if a railroad decides to require an employee to assume custody of an EEBA, then FRA will inevitably end up using its resources to investigate individual events and circumstances surrounding an employee's request to have an EEBA repaired or replaced.

The current proposed language in § 227.205 follows the requirements of the RSIA mandate while allowing railroads subject to this proposed rule to provide EEBAs in a way best suited to their operations. Given the attendant costs and benefits, FRA proposes to allow railroads to find the best way to provide EEBAs in a manner that fully meets the RSIA mandate and Congressional intent. Furthermore, as FRA cannot anticipate the changes in technology that might affect the types or sizes of EEBAs or changes in the technology and design of locomotives cabs that could impact the mounting and storage of EEBAs the proposed regulation will allow railroads to utilize the latest equipment.

9. Comments on Proposed § 227.207, With FRA's Response

FRA received numerous responses to proposed § 227.207, which would have required railroads to establish a program for inspection, maintenance, and replacement of EEBAs and to establish certain inspection procedures. In response to comments from AAR, FRA has limited the document retention period for pre-trip inspections to 92 days. FRA has also removed reference to asphyxiants in this section of the proposed rule for the reasons provided above.

NIOSH comments that the 2010 NPRM fails to specify regular intervals in which EEBA inspections are to occur. It recommends incorporating the OSHA inspection requirement from 29 CFR 1910.134(h)(3)(i)(B), which states, ''[a]ll respirators maintained for use in emergency situations shall be inspected at least monthly and in accordance with the manufacturer's recommendations and shall be checked for proper function before and after each use.''

FRA proposes a requirement for regular inspections in § 227.207(a)(1), which includes a pre-trip inspection prior to using a locomotive in a train that is transporting a PIH material, and in § 227.207(a)(2), which includes periodic inspections based on the recommendations and instructions of the manufacturer. FRA's inspection requirements do not vary significantly from the OSHA requirements. Notwithstanding this, due to the operational nature of the railroads, FRA feels that its criteria are better suited to this industry than specifying an established periodic inspection as used by OSHA. Since the railroad would not be permitted to operate a locomotive in a train where operable devices are absent, the necessity of having an arbitrary inspection schedule is not needed.

The company, 3M, comments that it supports the rulemaking, but that it has concerns about proposed § 227.207(b). 3M believes that this proposed paragraph implies the necessity of using of RFID tags to identify specific equipment. The commenter encourages FRA ''to separate the RFID and inspection database requirements from the EEBA specification . . . because there is no RFID frequency specified for the tag, and there are multiple frequencies available that are not cross compatible.'' The company states that handheld RFID readers currently on the market operate on a specific frequency, which could present problems when locomotives are interchanged if a foreign railroad is required to perform periodic EEBA inspections. Absent identical RFID tags among interchanging railroads, the railroads may not be able to meet the proposed inspection requirements.

It appears that 3M may have confused AAR's draft specification with FRA's proposed regulatory requirements. The draft specification prepared by AAR is not a part of this proposed regulation. Proposed § 227.207(b) does not require the use of RFID tags. The proposed provision merely establishes a requirement of pre-trip and periodic inspections. It leaves the logistics of performing such inspections to the railroads. FRA understands, however, that AAR is considering using RFID tags to track inspections and its member railroads may want to consider 3M's comments in determining the most efficient way to satisfy the regulatory requirements of § 227.207(b). Additionally, 3M's comments may factor into what procedures a railroad will use to ensure interchangeability, which is an essential element to a railroad's general EEBA program. *See* § 227.211(b)(3).

AIHA suggests that formal inspections of EEBAs under § 227.207 should be conducted at the same time as the locomotive quarterly inspection. It notes that the current plan is to use a RFID tag for identifying and tracking each EEBA, which would allow for each unit to be assigned a unique identifier that would also identify the owning railroad. The RFID tag would allow for easy scanning during the quarterly inspection to document what units are currently mounted in each locomotive and would verify that each EEBA is still in proper working order with the required oxygen or air level, the case intact, seals in place, and no tampering has occurred. AIHA states that railroads can ensure a seamless process for inspections by integrating EEBA inspections with locomotive inspections, which are well-established within the railroad industry.

It appears that AIHA, like 3M, has made the assumption that the discussion in the NPRM covering the AAR draft specification has been made part of the proposed rule in some manner. That is not FRA's intent. FRA published input from both the industry (AAR) and labor organizations, provided during the development of the NPRM, to invite feedback and gain a broader understanding of the issues raised by these stakeholders. AAR's input reflects the intentions of larger railroads but does not necessarily represent how smaller railroads would respond to this proposed rule, given their unique set of economic constraints.

The language in proposed § 227.207 merely requires that each railroad establish and comply with a written program for inspection, maintenance, and replacement of EEBAs, which includes pre-trip and periodic inspections of the EEBAs. FRA understands that it is AIHA's position

that this proposed schedule is unnecessary and over-burdensome. In their comments, they cite the chemical, paper, mining, and maritime industries, which require respirator inspection frequencies of 30–90 days. The AIHA would like to see quarterly inspections of EEBAs.

FRA is continuing to propose the requirement for pre-trip inspections, because the nature of railroading demands that the EEBA must be inspected pre-trip. It is a proposed requirement that an EEBA for each employee will be present in the locomotive cab prior to departure thus facilitating the pre-trip inspection. This is so regardless of the manner in which the EEBA is provided, whether it is issued to an individual, or mounted within the locomotive cab, or provided in some other way. The nature of this pre-trip inspection may be as simple as visually inspecting and verifying that the case has not been tampered with and that all gauges and other indicators are in an acceptable range.

FRA envisions that the pre-trip inspection will be a quick check to ensure that the appropriate accompaniment of EEBAs is provided and that those devices are charged to provide a minimum 15-minute breathing capacity, as well as any of other necessary checks that the manufacturer recommends. While this type of check could potentially involve using an RFID tag, FRA is not proposing that each railroad ''hav[e] each unit in a computer database . . . to track each unit and identify when units are due for factory testing.'' Such a requirement presumes a level of financial resources that are not necessarily available to some short line carriers who are covered by this rule.

Labor urges FRA to modify proposed § 227.207 to make it clear that EEBAs provided pursuant to this regulation must be fully charged with an approval rating of 15 minutes during a 3-mph treadmill test. Labor also proposes that FRA establish a ''quick check'' inspection process for railroad employees that would include observing an external gauge that can be easily viewed and understood by all employees. Specifically, Labor states that the EEBA should have a gauge with a needle to indicate the length of time the device will operate.

FRA does not believe that a pre-trip or periodic inspection should involve re-verifying a specification since it is unclear how this specification could be verified outside of an established testing and certification regime. FRA is aware that different types of devices have different means of verifying readiness for use. Escape devices that rely on pressurized tanks of air generally have a pressure gauge such as that mentioned in Labor's comment. Other devices, such as combination chemical scrubber/oxygen supply devices, may only have a ''go/no go'' window. While FRA stated above that it envisions a ''quick check'' pre-trip inspection process that verifies that appropriate number of EEBAs have been provided and that such EEBAs are charged to provide a minimum of 15 of minutes breathing capacity, FRA finds that, beyond these basic factors, the manufacturer is the best source of information on the manner in which a given device is verified as ready for service.

AAR agrees with FRA's decision in proposed § 227.207(a)(2) to require periodic inspections ''in a manner and on a schedule in accordance with the manufacturer's instructions''; however, it comments that the proposed pre-trip inspection of EEBAs required by this proposed section could be overly burdensome. As an alternative, AAR suggests that the appropriate inspection procedure should depend on how a railroad chooses to deploy EEBAs. While AAR agrees that a pre-trip inspection would be appropriate if a railroad were to issue EEBAs directly to its employees, either permanently or for a single trip, it believes a calendar day inspection, as part of the required 49 CFR 229.21 inspection, is more appropriate if a railroad chooses to mount EEBAs permanently in locomotive cabs.

The RSIA requires that EEBAs be provided to all crewmembers in the locomotive cab of a freight train transporting a hazardous material that would pose an inhalation hazard in the event of release. FRA considers pre-trip inspections the most effective method of ensuring compliance with the statutory mandate. FRA must anticipate many different operating scenarios and means of providing the EEBAs to crews. FRA can envision scenarios where at least two crews could be relying on locomotive-mounted EEBAs and, absent a pre-trip inspection, the second crew would have no means to verify that the devices present are ready for service. As an example, if EEBAs were inspected as part of calendar day inspection under part 229, the inspection could occur well after the crew (or crews) used a locomotive to transport a PIH material. This is because the calendar day inspection could be performed legally after the crew or crews have completed their duties, as long as the inspection was performed by midnight on the calendar day that the locomotive was used. As a result, calendar day inspections would not assure that the required EEBAs were in working order for the crew or crews using the locomotive at the time that the train is transporting a PIH material. Therefore, FRA does not think it is appropriate to change the proposed pre-trip inspection requirement.

Additionally, AAR asks that FRA clarify whether a pre-trip inspection consists of a quick visual inspection to ensure that the EEBAs appear to be in working order. It notes that because EEBAs are sealed in air-tight containers, FRA cannot expect railroad employees to break the seal of the device to inspect it. FRA has discussed what it envisions as part of the pre-trip inspection in the preceding paragraphs; however, AAR's comment presumes that the type of device chosen by AAR will be used universally in the railroad industry. FRA has written the proposed regulation to require the device selected to have certain characteristics while allowing railroads to choose devices best suited to their operations. FRA expects that the type of device selected by each railroad will determine the nature of the inspection required, presumably based on the recommendations of the manufacturer of the device.

AAR opposes the recordkeeping requirements in § 227.207(b)(2). Its objection is not targeted at the requirement to keep records of inspections performed pursuant to manufacturer instructions, but to the requirement that records of pre-trip inspections be kept for one year. It asserts that keeping pre-trip inspection records for one year would not provide a safety benefit. AAR suggests that if FRA were to require daily inspections (as opposed to pre-trip inspections) in instances where EEBAs are permanently installed in the locomotive cab, then keeping records of those inspections as part of the daily inspection report required by 49 CFR 229.21 would not be overly burdensome given that daily inspection records are already maintained and kept for a period of 92 days. However, AAR contends that railroads should not be burdened with new recordkeeping requirements for pre-trip inspections, which would not, according to AAR, yield useful information.

AAR's comment draws an analogy to the daily inspections required under 49 CFR 229.21, but FRA believes a more appropriate analogy is the pre-trip inspection of a train's braking system as required under 49 CFR 229.46. While daily inspections may be more convenient, the nature of the device being inspected, along with the

intended use (*i.e.,* emergency escape) is similar in the context of (personal) safety criticality to ensuring the braking systems in the consist are working. Nevertheless, FRA does agree that there is little reason to keep pre-trip inspection records for one year. The proposed period of records retention for pre-trip inspections has, therefore, been reduced to 92 days in this SNPRM. While FRA does view pre-trip inspection records as necessary to ensure compliance with the RSIA mandate, it should be noted that the record of pre-trip inspections, depending on the device selected, may be as simple as the check-off/initialed card used on fire extinguishers. FRA also understands that some of the Class I carriers are considering using RFID tags to track and record the inspection of individual EEBA units. The use of this technology could possibly minimize the inspection and recordkeeping burden.

Finally, AAR provided comments about proposed § 227.207(d), which requires railroads to maintain accurate records of return, maintenance, repair, or replacement of each required EEBA for a period of three years. AAR questions whether this provision would allow for railroads to arrange for EEBA suppliers to maintain these records. It is FRA's view that such an arrangement would be acceptable; however, as AAR notes, the railroad would remain responsible for any failure on the part of a third party to maintain such records for the required time period or to provide FRA reasonable access to the records.

10. Comments on Proposed § 227.209, With FRA's Response

FRA received numerous comments on proposed § 227.209 and has adopted the provision without change, except for deleting reference to asphyxiants. Section 227.209 establishes requirements for a railroad's program of instruction on EEBAs. The section sets out a number of subjects that must be covered in training including the importance of proper fit, usage, and maintenance in the effectiveness of the EEBA; the device's capabilities and limitations; and how to use an EEBA effectively in an emergency situation. Additionally, following initial training, it requires periodic training once every three years.

NIOSH recommends that proposed § 227.209 require annual expectation training (*i.e.,* training for use of Closed-Circuit Self Contained Escape Respirators that simulates the initiation procedures, heat, and breathing resistance the user will experience in the respirator's performance) and ''hands-on'' training that goes over the appropriate donning procedures. FRA expects that the proposed language in § 227.209(b)(4), which requires training on how to inspect, put on, remove, and use the EEBA and how to check the seals of the EEBA, will ensure that railroad employees are sufficiently familiar with the EEBAs provided by their employing railroads.

NIOSH, ISEA, and Draeger also recommend that proposed § 227.209 be modified to follow Mine Safety and Health Administration requirements for quarterly training of underground coal miners, *see* 30 CFR 75.1504, which requires that each miner undergoes ''hands-on'' training for donning and transferring of self-rescue devices as part of the required evacuation drill at the start of underground work, with this training provided at least four times a year. Moreover, ISEA and Draeger raise specific concerns about the adequacy of training personnel on a triennial basis because of concerns that people will forget the training received.

FRA believes there are significant differences in the operational practices and risks faced by the employees in these two populations. Miners report to a fixed site each day and face a significant frequency of potential exposure to the materials against which these devices are intended to protect. Railroad operating employees often report to duty at different locations each day, and the frequency of potential exposure to inhalation hazards are orders of magnitude less. FRA does not view the three-year interval between training sessions as presenting an obstacle to effective use of EEBAs in the very rare event that the need for a device arises.

It is also important to keep in mind that the proposed instructional program established in § 227.209 is a minimum requirement. Railroads are encouraged to provide additional relevant information depending on the types of EEBAs selected. FRA is aware that, among the larger carriers, on-line refresher training is often available to employees on an ad-hoc basis. FRA also believes that the pre-trip inspections and contact with the devices will keep their use ''front of mind'' for the purposes of encouraging employees to take advantage of the available on-line resources.

Labor acknowledges that the RSIA mandates that appropriate training for the use of the EEBAs be included in the rule, but it is wary that testing will be used as a way to withhold certain employees from service. It contends that even though the RSIA does not require testing, it agrees that the employees should be proficient in the use of the EEBA. However, Labor is ''concerned that some railroad will establish unachievable, unnecessary or excessive performance requirements that, if not satisfied, will be used to hold employees out of service.'' As a result, Labor requests that FRA modify proposed § 227.209 to remove language requiring employees demonstrate knowledge of each of the elements in § 227.209(b) and that employees only be required to show proficiency in how to inspect, put on, remove, and use the EEBA and how to check the seals of the EEBA.

FRA finds the language proposed in § 227.209(b) as appropriate for the proper use of these devices. The language requiring a demonstration of knowledge was taken directly from OSHA's regulation covering the provision of respirators in the workplace. *See* 29 CFR 1910.134(k)(1). The requirement is intended to ensure that after having been trained, the subject employees have the knowledge and skills to use the devices properly. Both the railroad and its employees have a vital interest in ensuring the training is both effective and retained. FRA does not believe the railroads have any incentive to establish ''unachievable, unnecessary or excessive performance requirements'' in this regard.

AAR requests the deletion of proposed paragraph § 227.209(b)(3), which requires instruction on how to use the EEBA effectively in emergency situations, including situations in which the EEBA malfunctions. It does not understand what FRA envisions will be taught other than to leave the scene as quickly as possible. As with the other provisions in proposed § 227.209(b), proposed paragraph (b)(3) was borrowed directly from OSHA's regulation covering the provision of respirators in the workplace. *See* 29 CFR 1910.134(k)(1)(iii). FRA finds no reason to delete the provision. While these circumstances are likely to be rare, FRA believes that, as a basic principle of emergency preparedness, it is useful to anticipate the kinds of scenarios that might occur and plan for them. For additional guidance, railroads can look to OSHA. *See, e.g.,* 63 FR 1152, 1259 (Jan. 8, 1998).

11. Comments on Proposed § 227.211, With FRA's Response

AAR comments that there is no reason to require in proposed § 227.211(b)(1) that a railroad identify by name the employee managing the railroad's general EEBA program. AAR notes that

there could be frequent changes in the specific individual in charge of the general EEBA program. As a result, AAR suggests deleting the proposed requirement that the individual be identified by name. While FRA is concerned with AAR's assertion that the name of the individual managing a railroad's general EEBA program may change frequently, FRA is deleting the proposed requirement that the person in charge of implementing and managing the railroad's general EEBA program be identified by name. It is sufficient to identify the person managing the general EEBA program by title, with all additional requirements remaining as proposed.

12. Comments on Proposed § 227.217, With FRA's Response

FRA received comments from Labor on proposed § 227.217. This provision proposed to establish a staggered compliance schedule, with Class I railroads required to comply with the requirements of part 227, subpart C no later than 24 months from the effective date of the final rule, Class II railroads required to comply no later than 30 months from the effective date, and Class III railroads required to comply no later than 36 months from the effective date.

Labor strongly encourages FRA to shorten the implementation schedule to no more than 90 days following the date of publication of the final rule. Labor contends that EEBAs ''will be a necessary safety overlay for the totally unpredictable work schedules that are commonplace in the industry today.'' Moreover, Labor contends that there is not a logical reason to delay the implementation in the manner suggested by AAR, and proposed by FRA in the NPRM, when devices are readily available at this time.

While FRA understands the desire for more immediate implementation of EEBA programs, FRA cannot justify shortening the periods proposed in the 2010 NPRM for compliance to 90 days. In the short term, it is not necessarily true that the devices are readily available in the quantities needed. The shortened time frames proposed by Labor would also strain the capabilities of the railroads with respect to developing the management infrastructure for deploying and maintaining the devices, developing the required written programs and training, and scheduling and conducting the training for all of the operating and other employees likely to be covered. However, given the length of time since the publication of the RSIA mandate as well as FRA's issuance of guidance in 2016 the railroads have been on notice about the need to provide EEBAs. Therefore, FRA proposes shortening the compliance schedule from the original NPRM and now proposes that Class I railroads be required to comply with the requirements of part 227, subpart C no later than 12 months from the effective date of the final rule, Class II railroads be required to comply no later than 12 months from the effective date, and Class III railroads be required to comply no later than 18 months from the effective date.

VIII. Section-by-Section Analysis

PART 227—OCCUPATIONAL SAFETY AND HEALTH IN THE LOCOMOTIVE CAB

FRA proposes to change the name of the part from ''OCCUPATIONAL NOISE EXPOSURE'' to ''OCCUPATIONAL SAFETY AND HEALTH IN THE LOCOMOTIVE CAB'' in order to reflect the broader subject matter of the part. Previously, part 227 contained regulations related only to dangers from occupational noise exposure. Part 227 is the most natural place to put the proposed regulations related to the provision of EEBAs because the occupational noise regulations and the EEBA regulations both concern dangers to the occupational safety and health of locomotive cab occupants. However, the inclusion of the proposed EEBA regulations requires broadening the name of the part to accurately capture the new subject matter that is now covered in that part.

Subpart A—General

Section 227.1 Purpose and Scope

FRA proposes to amend this section to reflect the expanded purpose and scope of this part. In comparison to the NPRM, FRA has modified paragraph (c) of this section in the final rule to remove reference to asphyxiants.

Section 227.3 Applicability

FRA proposes to amend this section so that paragraphs (a) and (b) apply to subpart B only and that the title mentioned, ''Associate Administrator for Safety,'' is updated to reflect the current title, ''Associate Administrator for Railroad Safety/Chief Safety Officer.'' New paragraphs (c) and (d) define the types of railroad operations to be covered by subpart C. In particular, subpart C applies to a railroad that transports an in-service freight train that carries a PIH material. FRA has removed the references to asphyxiants that were in the NPRM, including a residue of such PIH material, on track that is part of the general railroad system of transportation. *See* 49 CFR part 209, appendix A. If a railroad does not haul such a material on the general system, it is not subject to this subpart. It should be noted that, with some exceptions, common carriers by railroad have a ''common carrier'' obligation to accept for rail transportation a PIH material if it is properly prepared for transportation. If a railroad accepts and transports a tank car containing a load or residue of a PIH material in an in-service freight train, even if the railroad has never done so before, the railroad would become subject to this rule. FRA realizes that triggering the applicability of this rule upon the company's first transporting of a PIH material in a freight train could delay the transportation of such material if the company did not voluntarily take the steps required by the rule (*e.g.,* preparation of general EEBA program, procurement and distribution of EEBAs, and instruction of employees in the program) in advance. Further, a delay related to compliance with this proposed rule could conflict with the railroad's duty to expedite the transportation of hazardous material, pursuant to the Hazardous Materials Regulations at 49 CFR 174.14. Accordingly, FRA sought comments on this aspect of the proposal, but received none.

Section 227.5 Definitions

The proposed rulemaking would amend this section to add definitions for key terms used in subpart C. The terms defined are set forth alphabetically. FRA intends these definitions to clarify the meaning of the terms for purposes of this part. Many of these definitions have been taken from the regulations issued by OSHA and NIOSH and are widely used by safety and health professionals, such as the definition of ''immediately dangerous to life or health (IDLH).'' A definition of ''PIH material'' is included in this SNPRM to ensure that the universe of materials covered by this regulation is adequately described.

Section 227.15 Information Collection

FRA proposes to amend this section to note the provisions of this part, including subpart C, that have been reviewed and approved by OMB for compliance with the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.*

Subpart B—Occupational Noise Exposure for Railroad Operating Employees

FRA proposes a set of minor corrections to this subpart. The term ''Class 1'' is removed wherever it

appears and replaced with the corrected term ''Class I.'' The incorrect term appeared in, for example, § 227.103(a)(1).

Subpart C—Emergency Escape Breathing Apparatus Standards

Section 227.201 Criteria for Requiring Availability of EEBAs in the Locomotive Cab

Proposed section 227.201(a)(1) requires that an EEBA be provided by a railroad to each of its train employees, direct supervisors of train employees, deadheading employees, and other employees designated by the railroad in writing and at the discretion of the railroad who are required to work in or occupy the cab of any locomotive of one of its covered trains (*i.e.,* an in-service freight train that is transporting a PIH material). The EEBA provided must have been selected in accordance with the criteria in § 227.203. Moreover, the EEBA provided shall have been inspected and determined to be in proper working condition under § 227.207.

Proposed section 227.201(a)(2) prohibits utilizing a locomotive to transport a PIH material in an in-service freight train unless each of the employees identified in paragraph (a)(1) in the cab of the locomotive has access to an EEBA that was selected in accordance with § 227.203 and that has been inspected and is in proper working order pursuant to § 227.207. Paragraph (a)(2) makes clear that it is not enough for a railroad to merely issue an EEBA to an employee, *e.g.,* as a uniform item; the EEBA must be physically available to the employee in the cab of the covered train. For instance, it is not a defense to a violation of § 227.201(a)(2) that the railroad provided the EEBA to the employee and instructed the employee to have it while in the cab, but the employee lost or forgot it.

Proposed section 227.201 also includes exceptions to its general requirements in paragraph (b). FRA excludes trains that contain PIH materials exclusively in intermodal containers from the requirements in this section. Further, employees who are involved in activities, such as moving a locomotive coupled to a car or group of cars containing a PIH material within a locomotive maintenance facility, or who make incidental movements for the purpose of inspection or maintenance, are also exempted from coverage.

Proposed paragraph (c) establishes that, notwithstanding the exceptions identified in § 227.201, any employee who is found to have willfully tampered with or vandalized an EEBA will be subject to subpart C for enforcement purposes. As a result, an employee to whom the railroad is not required to provide an EEBA may become subject to this subpart by vandalizing or willfully tampering with an EEBA. By proposing this paragraph, FRA intends to foreclose a loophole that otherwise would preclude FRA from pursuing enforcement actions against mechanical employees and other employees who may have access to EEBAs, but for whom the railroads are not required to provide a device by these regulations.

Section 227.203 Criteria for Selecting EEBAs

This proposed section provides the basis for selecting an EEBA. *See* general discussion at V. Selection of the Appropriate EEBA by Railroads, above. The proposed requirements for selection of EEBAs are based on the nature and extent of the potential hazard to be faced. Due to the varying modes of toxicity and physical state of commodities carried by railroads, the selection of EEBA types is limited to those that supply a breathable atmosphere to the wearer, rather than types that simply filter out the toxic material. Filtering EEBAs cannot provide protection from gasses that can displace the oxygen in the atmosphere. Filtering EEBAs approved for protection against specific materials usually are not approved for others of different chemical characteristics and generally have an upper concentration limit on their protective capabilities.

Paragraph (a) of § 227.203 proposes to require a railroad to select an atmosphere-supplying EEBA that protects against all PIH materials (including residues of such commodities) that are being transported by an in-service freight train. To ensure that the EEBAs have met a standard set of testing criteria, paragraph (b) requires the selection of a NIOSH-certified (42 CFR part 84) or ISO-compliant (ISO 23269–1:2008) EEBA, with 15-minute minimum breathing capacity. In addition, FRA has proposed language to paragraph (b) to permit selection of devices that comply with BS EN 13794:2002 or BS EN 1146:2005.

To ensure that the EEBA provides adequate oxygen to allow train employees to extricate themselves from an IDLH atmosphere, in paragraph (c)(1), FRA has proposed that the EEBA must contain a minimum breathing capacity of 15 minutes under § 227.207(a)(1).

In paragraph (c)(2), FRA addresses head and neck protection. The EEBA type that is selected by a railroad must facilitate escape from a hazardous atmosphere by providing a means of protecting a user's nose and throat from inhalation hazards while also protecting the user's eyes from irritation.

Section 227.205 Storage Facilities for EEBAs

This proposed section addresses the mandate in the RSIA that the rule require railroads to ''provide convenient storage in each freight train locomotive to enable crewmembers to access such apparatus quickly.'' FRA has adapted the storage requirements promulgated by OSHA at 29 CFR 1910.134(h)(2) to this proposed rule.

Section 227.207 Railroad's Program for Inspection, Maintenance, and Replacement of EEBAs; Requirements for Procedures

This proposed section requires each railroad to establish and carry out procedures intended to ensure that EEBAs required to be present in the locomotive cabs are fully functional. This section is adapted from OSHA's inspection documentation requirements. *See* 29 CFR 1910.134(h)(3)(iv). Since the EEBAs selected may have differing requirements for inspection, maintenance, and replacement, this section is, for the most part, written for as a general standard. However, minimum repair and adjustment requirements also have been adapted from OSHA's regulations. *See* 29 CFR 1910.134(h)(4).

In paragraph (b), FRA proposes that railroads create and maintain pre-trip and periodic inspection records and retain these records for a period of 92 days and one year, respectively. Paragraph (d) proposes to require railroads to create and maintain an accurate record of all turn-ins, maintenance, repair, and replacement of EEBAs required by paragraph (c) of this section, including EEBAs that are used; and retain these records for three years.

Section 227.209 Railroad's Program of Instruction on EEBAs

This proposed section identifies the elements of the instructional program that the railroad must establish and carry out for train employees and other employees who are part of the railroad's general EEBA program under § 227.211 and will be provided with EEBAs. The elements outlined in this section are partly adapted from OSHA's regulations. *See* 29 CFR 1910.134(k). The program proposed by this section should be considered the minimum, and the railroads are encouraged to provide additional relevant information depending on the types of EEBAs selected.

Proposed paragraph (b) requires that any railroad transporting a PIH material must provide sufficient training to its subject employees. Such employees must be able to demonstrate knowledge concerning why an EEBA is necessary; how improper fit, usage, or maintenance can compromise the protective effect of an EEBA; the limitations and capabilities of the type of EEBA that has been provided by the railroad, including the limited time for use; how to deal with emergency situations involving the use of EEBAs or if an EEBA malfunctions; how to inspect, put on, remove, and use an EEBA, including the inspection of seals; procedures for maintenance and storage of EEBAs; the selection criteria for EEBAs under § 227.203, employee responsibilities under subpart C; employee rights concerning access to records; and identification of hazardous materials that are classified as PIH materials. FRA is particularly concerned that the employees know the limitations of the EEBAs provided so that the employees can avoid circumstances that would lead to reliance on the EEBAs for conditions or time frames beyond EEBA capabilities.

This proposed program may be integrated with the railroad's program of instruction on the railroad's operating rules required by 49 CFR 217.11 or its program of instruction for hazmat employees under 49 CFR 172.704. Under 49 CFR 172.704(a)(3)(ii), for example, hazmat employees (which includes crews of freight trains transporting hazardous material), must receive ''safety training'' on means ''to protect the employee from the hazards associated with hazardous materials to which they may be exposed in the workplace, including special measures the hazmat employer has implemented to protect employees from exposure.''

Proposed paragraph (c) establishes the timing of the initial and refresher training. Initial instruction must occur no later than 30 days prior to the date of compliance with subpart C for the subject railroad. New employees must receive initial instruction either by 30 days before the applicable date of compliance with subpart C or prior to being assigned to jobs where EEBAs are required to be provided on a locomotive, whichever is later. The initial instruction must be supplemented with periodic instruction at least once every three years.

Proposed section 227.209(d) requires railroads to create and maintain an accurate record of employees instructed in compliance with § 227.209; and retain these records for at least three years.

Section 227.211 Requirement To Implement a General EEBA Program; Criteria for Placing Employees in the General EEBA Program

In this proposed section, FRA requires railroads subject to subpart C to adopt and comply with a general EEBA program to ensure that the selection and distribution of the EEBAs is done in a technically appropriate, sustainable manner and supported by a comprehensive set of policies and procedures. These issues have already been discussed in detail at IV. FRA-Sponsored Study and V. Selection of the Appropriate EEBA by Railroads, above. Many of the procedures will likely be used as a basis for aspects of the required instructional program.

In paragraph (b)(1), FRA proposes that each railroad's general program identify the railroad's EEBA manager by title. The important concern is that the EEBA manager is qualified to oversee the program.

Proposed section 227.211(b)(4) requires the following individuals to be placed in the railroad's general EEBA program: (1) employees of railroads subject to this subpart who perform service subject to the provisions of the hours of service law governing ''train employees,'' *see* 49 U.S.C. 21103, in the locomotive cabs of freight trains that transport a PIH material; (2) the direct supervisors of these train employees; and (3) any employees who deadhead in the locomotive cabs of such trains. The term ''train employee'' refers to employees who are engaged in functions traditionally associated with train, engine, and yard service; for example, engineers, conductors, brakemen, switchmen, and firemen. *See* 49 U.S.C. 21101(5); 49 CFR part 228, appendix A; and 74 FR 30665, June 26, 2009.

A railroad may also identify other employees and designate them in writing to be included in its general EEBA program. In making this assessment, the railroad should consider an employee's work over the period of a year. In doing so, the railroads must think about how they use their workforces, *i.e.,* review the work that their employees perform, determine which employees will occupy the cab of the locomotive of an in-service freight train and therefore experience the risk of the release of an inhalation-material from the consist, and then place those employees in the general EEBA program.

Given the nature of the railroad industry, FRA is aware that some of these employees may not always work in the cab. Due to longstanding labor practices in the railroad industry concerning seniority privileges and concerning the ability of railroad employees to bid for different work assignments, these railroad employees are likely to change jobs frequently and to work for extended periods of time on assignments that involve duties outside the cab. For example, an employee might start the year in a job that involves mostly outside-the-cab work, spend three months working primarily inside the cab, and then return to outside-the-cab work for the rest of the year. In this type of situation, these regulations govern the exposure of this employee throughout the year despite the fact that the employee only spent three months inside the cab. This employee is covered by this proposed part, because he spent time, no matter how little, in a locomotive cab where the use of an EEBA may be required. As a result, the railroad must ensure that the employee is properly instructed in how to inspect and use an EEBA and provide an EEBA for those time periods in which the employee is serving as a train employee, as a direct supervisor of a train employee, or in a capacity that the railroad has determined, in its discretion and designated in writing, should be provided an EEBA while any of these individuals is working in the cab of the locomotive of an in-service freight train transporting a PIH material.

Note that placement of an employee in the railroad's general EEBA program means different things depending on the nature of the program that the railroad chooses to adopt. For example, if the railroad's program states that the railroad will equip its fleet of locomotives with sets of EEBAs sufficient to accommodate the train crew and possible deadheading train employees, the railroad would have to provide the EEBA to the employee in that way, in the locomotive cab. On the other hand, if the railroad's program states that the railroad will provide the EEBA to the employee as part of his or her personal equipment, the railroad would have to provide the EEBA in that manner. If the employee for whatever reason did not have the EEBA with him or her while in the locomotive cab, the railroad would be prohibited from using the locomotive by § 227.201(a)(2), which bars using a locomotive to transport a covered train if a covered employee occupying the cab of the locomotive does not access to a working EEBA. One constant is that all railroads subject to this proposed part are required to instruct employees placed in their general EEBA program in how to use EEBAs; the provision on instruction at § 227.209 requires that all employees

identified in § 227.211 be provided instruction on EEBAs.

Finally, proposed § 227.211(c) requires railroads to maintain records concerning the persons and positions designated to be placed in its EEBA program and retain these records for the duration of the designation and for one year after the designation has ended.

Section 227.213 Employee's Responsibilities

Since employees, who must be provided the EEBAs, are not always directly supervised by managers who can ensure the identified tasks are done at the appropriate time and frequency, this proposed section establishes certain responsibilities on the part of employees. Some of these tasks may involve making records of such tasks as pre-trip inspections that must be done to ensure the EEBAs are ready for use. Additionally, FRA proposes prohibiting employees from willfully tampering with or vandalizing an EEBA in an attempt to disable or damage the device. *See* 49 CFR part 209, appendix A for definition and discussion of ''willfully.''

Section 227.215 Recordkeeping in General

Proposed section 227.215 sets out the general recordkeeping provisions for subpart C. Proposed section 227.215(a) addresses the availability of required records. Section 227.215(a) provides that records required under this part, except for records of pre-trip inspections, be kept at system and division headquarters. It proposes requiring that a railroad make all records available for inspection and copying or photocopying by representatives of FRA upon request. The railroad must also make an employee's records available for inspection and copying or photocopying by that employee or such person's representative upon written authorization by such employee.

Proposed section 227.215(b) permits required records to be kept in electronic form. These requirements are almost identical to the electronic recordkeeping requirements found in FRA's existing Track Safety Standards, 49 CFR 213.241(e). Section 227.215(b) allows each railroad to design its own electronic system as long as the system meets the specified criteria in § 227.215(b)(1) through (5), which are intended to safeguard the integrity and authenticity of each record.

Section 227.217 Compliance Dates

The specific dates by which certain groups of railroads are required to comply are set forth in this section. FRA recognizes that it will take time to procure EEBAs, instruct employees on their use, and outfit locomotives with the appropriate equipment to carry the devices. FRA staggers the compliance dates based on the size of the railroad, with larger railroads having to comply earlier. The AAR's January 13, 2010, letter referenced earlier requests ''that FRA allow at least two years from the effective date of the final rule for the railroad to be compliant with the regulation.'' Under the final rule, FRA requires Class I railroads to be compliant within 12 months of the effective date of the final rule, with required compliance following for Class II railroads at 12 months and Class III and other railroads at 18 months.

Section 227.219 Incorporation by Reference

Because subpart C proposes to incorporate by reference ISO 23269–1:2008, BS EN 13794:2002, and BS EN 1146:2005, FRA is adding this section to comply with the requirements of 5 U.S.C. 552(a) and 1 CFR part 51. ISO 23269–1:2008 provides specifications for emergency escape breathing devices intended to supply air or oxygen needed to escape from accommodation and machinery spaces with a hazardous atmosphere. BS EN 13794:2002 provides specifications including requirements, testing, and marking for self-contained closed-circuit breathing apparatus intended for an escape from a hazardous atmosphere. BS EN 1146:2005 provides specifications including requirements, testing, and marking for self-contained open-circuit compressed air breathing apparatus incorporating a hood and intended for an escape from a hazardous atmosphere. They are reasonably available to all interested parties online at *https://webstore.ansi.org/* and *http://shop.bsigroup.com,* respectively. Further, FRA will maintain copies of the standards available for review at the Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

IX. Regulatory Impact and Notices

A. Executive Order 12866

This proposed rule is not a significant regulatory action within the meaning of Executive Order 12866. Details on the estimated costs of this SNPRM can be found in the RIA, which FRA has prepared and placed in the docket (FRA–2009–0044).

FRA is proposing a rule that would enable covered employees to wear protective breathing apparatus in the event of a catastrophic release of PIH materials. This rule would require that an EEBA be provided for each covered employee transporting PIH materials. These EEBAs would provide neck and face coverage with respiratory protection for these crewmembers. Railroads must also ensure that the equipment is maintained and in proper working condition. Finally, the proposed rule would require that railroads train crewmembers how to use the EEBAs.

The RIA presents estimates of the costs likely to occur over the first 10 years of the proposed rule. The analysis includes estimates of costs associated with the purchase of EEBAs and installation, employee training, and recordkeeping.

FRA has estimated costs for three options that are permissible under the rule. These include:

- *Option 1:* Employee Assignment—EEBAs are assigned to all relevant employees and considered part of their equipment.
- *Option 2:* Locomotive Assignment—EEBAs are assigned to and kept in locomotives.
- *Option 3:* Equipment Pooling—EEBAs are pooled at rail yards and kept in storage lockers where employees would check-in and check-out the EEBA when PIH is being hauled.

For all three options, estimates were developed using a closed-circuit EEBA. For the ''Employee Assignment'' option, FRA estimates that the costs associated with issuing each T&E employee ($60,000) with an EEBA as their own personal equipment. The ''Locomotive Assignment'' option would require installing EEBA devices in all locomotives in the covered railroad's fleet, regardless of whether a locomotive is part of a train that is transporting PIH material. There are approximately 24,000 locomotives owned by Class I railroads, and three apparatus would have to be installed in each locomotive, one apparatus each for the conductor, the engineer, and a supervisor. In the ''Equipment Pooling'' option, FRA considered only having EEBAs provided in trainsets that were transporting PIH. EEBAs would be brought on board after a determination is made on a case-by-case basis.

The analysis includes estimates of costs associated with the purchase of EEBAs and installation, employee training, and recordkeeping.

FRA estimates the 10-year costs of the proposed rule to be between $27.1 million and $91.6 million, discounted at 7 percent. The following table shows the total costs of this proposed rule, over the 10-year analysis period.

Total 10-Year Costs (2021 Dollars) [23]

Category	10-Year cost ($)	Present value 7% ($)	Present value 3% ($)	Annualized 7% ($)	Annualized 3% ($)
Option 1: Employee Assignment	$92,006,767	$78,979,882	$85,771,368	$11,244,958	$10,055,021
Option 2: Locomotive Assignment	106,793,579	91,611,301	99,524,731	13,043,388	11,667,335
Option 3: Equipment Pooling	33,527,842	27,100,467	30,398,108	3,858,497	3,563,586

The proposed rule is expected to improve railroad safety by ensuring that all covered employees can safely vacate the exposed area if a PIH material release were to occur. The primary benefits include heightened safety for crewmembers and, as a result, earlier awareness/notification to the public of PIH releases. Implementation of the SNPRM should mitigate the injuries of covered employees from PIH material releasing after an accident/incident. During a 10-year period, this analysis finds $43,110 (PV, 7 percent) in safety benefits that could accrue through injury prevention.

Category	10-Year benefits ($)	Present value 7% ($)	Present value 3% ($)	Annualized 7% ($)	Annualized 3% ($)
Total Benefits from Injury Prevention	$63,720	$43,110	$53,520	$6,138	$6,274

Although the costs associated with implementation of the proposed rule would almost certainly exceed the benefits, under RSIA, FRA must require railroads to: (1) ensure that EEBAs affording suitable ''head and neck coverage with respiratory protection'' are provided ''for all crewmembers'' in a locomotive cab on a freight train ''carrying hazardous materials that would pose an inhalation hazard in the event of release;'' (2) provide a place for convenient storage of EEBAs in the locomotive that will allow ''crewmembers to access such apparatus quickly;'' (3) maintain EEBAs ''in proper working condition;'' and (4) provide crewmembers with appropriate instruction in the use of EEBAs. However, FRA would not require a particular method of deployment of EEBAs, but rather leave that to the railroads' discretion. In addition, railroads would be allowed to select the type of apparatus to use in their program (closed-circuit or open-circuit). This allows railroads to deploy EEBAs in the manner best suited to their operation.

B. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on small entities. An agency must prepare an IRFA unless it determines and certifies that a rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. FRA has not determined whether this proposed rule would have a significant economic impact on a substantial number of small entities. Therefore, FRA prepared this IRFA to facilitate public comment on the potential small business impacts of the requirements in this SNPRM.

FRA invites all interested parties to submit data and information regarding the potential economic impact on small entities that would result from adoption of the proposals in this SNPRM. FRA particularly encourages small entities that could potentially be impacted by the proposed rule to participate in the public comment process. FRA will consider all information and comments received in the public comment process when making a determination of the economic impact on small entities.

1. Reasons for Considering Agency Action

Agency action is required under Section 413 of the RSIA.

2. A Succinct Statement of the Objectives of, and the Legal Basis for, the Proposed Rule

This proposed rule would help reduce the risk of injury to crewmembers due to inhalation of PIH. Section 413 of the RSIA requires the Secretary of Transportation to promulgate regulations that require railroads to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all covered employees.

3. A Description of, and Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The Regulatory Flexibility Act of 1980 requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule would not have a significant economic impact on a substantial number of small entities. ''Small entity'' is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and stipulates in its size standards that a ''small entity'' in the railroad industry is a for profit ''line-haul railroad'' that has fewer than 1,500 employees, a ''short line railroad'' with fewer than 1,500 employees, a ''commuter rail system'' with annual receipts of less than $16.5 million dollars, or a contractor that performs support activities for railroads with annual receipts of less than $16.5 million.[24]

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Under that authority, FRA published a statement of agency policy that formally establishes ''small entities'' or ''small businesses'' as railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR

[23] Numbers in this table and subsequent tables may not sum due to rounding.

[24] U.S. Small Business Administration, ''Table of Small Business Size Standards Matched to North American Industry Classification System Codes, August 19, 2019. *https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards_Effective%20Aug%2019,%202019.pdf.*

1201.1–1, which is $20 million or less in inflation-adjusted annual revenues,[25] and commuter railroads or small Governmental jurisdictions that serve populations of 50,000 or less. *See* 68 FR 24891 (May 9, 2003) (codified at Appendix C to 49 CFR part 209). FRA is using this definition for the proposed rule.

When shaping the proposed rule, FRA considered the impact that the proposed rule would have on small entities. The proposed rule would be applicable to all railroads with locomotives that transport PIH materials. FRA estimates there are 733 Class III railroads that operate on the general system. These railroads are of varying size, with some belonging to larger holding companies. FRA is aware of 110 Class III railroads that transport PIH materials. The remaining Class III railroads do not transport PIH, and thus would not be impacted by this proposed rule.

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Class of Small Entities That Would Be Subject to the Requirements and the Type of Professional Skill Necessary for Preparation of the Report or Record

Railroads must keep records pertaining to pre-trip and periodic inspections of EEBAs. The information about each pre-trip and periodic inspection must be accurately recorded on a tag or label that is attached to the storage facility for the EEBA or kept with the EEBA or in inspection reports stored as paper or electronic files. Railroads would also be required to keep training records. Training records must be kept at system and division headquarters. A railroad must also make all records available for inspection and copying by representatives of FRA upon request. The section permits that the required records can be kept in electronic form.

The type of professional skills needed by an employee responsible for submitting a special approval request includes the ability to plan and organize work. Such an employee would also need good verbal and written communication skills and attention to detail.

5. Summary of Class III Railroad Costs

Class III Railroads would have all the same cost components as larger railroads, reduced for the estimated number of locomotives and employees on Class III railroads.

The following table shows the annualized cost for Class III railroads over the 10-year analysis period. The total estimated 10-year costs for Class III railroads would be $1.0 million (PV, 7 percent) and the annualized cost for all Class III railroads would be $149,326 (PV, 7 percent).

Total 10-Year and Annualized Costs, Class III Railroads

Category	Present value (7%)	Annualized (7%)
EEBA and Installation	716,580	102,025
Training	232,950	33,167
Records	99,272	14,134
Total	1,048,802	149,326

The industry trade organization representing small railroads, ASLRRA, reports the average freight revenue per Class III railroad is $4.75 million.[26] The following table summarizes the average annual costs and revenue for Class III railroads.

Average Class III Railroads' Costs and Revenue

Total cost for class III railroads, annualized 7%	Number of class III railroads with PIH	Average annual cost per class III railroad ($)	Average class III annual revenue ($)	Average annual cost as a percent of revenue
a	b	c = a ÷ b	d	e = c ÷ d
$149,326	110	$1,358	$4,750,000	0.03%

The average annual cost for a Class III railroad impacted by this rule would be $1,358. This represents a small percentage (0.03%) of the average annual revenue for a Class III railroad.

The estimates above show that the burden on Class III railroads would not be a significant economic burden. FRA requests comments on this estimate and will consider all comments when making a determination for the final rule.

6. Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

FRA is not aware of any relevant Federal rule that duplicates, overlaps with, or conflicts with this SNPRM.

7. A Description of Significant Alternatives to the Rule

One alternative to this rule is the baseline approach. The baseline alternative (no action) would not fulfill requirements under RSIA. This proposed rule would allow railroads a significant amount of discretion when determining their plan for the implementation of EEBAs. For example, to reduce costs, FRA has allowed railroads to choose either open or closed-circuit units. Railroads may also choose any of the options described within this analysis or create any option that would still allow the railroad to be in compliance with the rule.

[25] The Class III railroad revenue threshold is $40.4 million or less, for 2021. (The Class II railroad threshold is between $40.4 million and $900 million.) *See* Surface Transportation Board (STB), available at *https://www.stb.gov/news-communications/latest-news/pr-21-16/*.

[26] American Short Line and Regional Railroad Association, *Short Line and Regional Railroad Facts and Figures,* p. 10 (2017 pamphlet).

C. Federalism

Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), requires FRA 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.'' ''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, the 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 government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. FRA has determined that the proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among the various levels of government. In addition, FRA has determined that this proposed rule will not impose substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. However, this proposed rule could have preemptive effect by operation of law under certain provisions of the Federal railroad safety statutes, specifically a provision of the former FRSA, repealed and recodified at 49 U.S.C. 20106, and the former LBIA, repealed and recodified at 49 U.S.C. 20701–20703. *See* Public Law 103–272 (July 5, 1994). A provision of the former FRSA provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the ''local safety or security hazard'' exception to section 20106. Moreover, the former LBIA has been interpreted by the Supreme Court as preempting the entire field of locomotive safety. *See Napier* v. *Atlantic Coast R.R.,* 272 U.S. 605, 611; 47 S.Ct. 207, 209 (1926).

In sum, FRA has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132. As explained above, FRA has determined that this proposed rule has no federalism implications, other than the possible preemption of State laws under a provision of the former FRSA and under the former LBIA. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this proposed rule is not required.

D. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This proposed rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

E. Paperwork Reduction Act

The information collection requirements in this proposed rule are being submitted for approval to OMB [27] under the Paperwork Reduction Act of 1995.[28] The information collection requirements and the estimated time to fulfill each requirement are as follows:

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden (hours) (C) = A * B	Total cost equivalent (D) = C * wage [29]
227.201(a)—Criteria for requiring availability of EEBAs in the locomotive cab—Employees designated by the railroad in writing.	128 railroads	600 designations	3 minutes	30.00	$2,337.30
227.203(c)—Criteria for selecting EEBAs—Railroads to document the adequacy of the EEBA and provide such documentation for inspection to FRA upon request.	128 railroads	43 written justifications	2 hours	86.00	$6,700.26

[27] FRA will be using the OMB control number (OMB No. 2130–0620) that was issued when the previous NPRM was issued in 2010 for this information collection request.

[28] 44 U.S.C. 3501 *et seq.*

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden (hours) (C) = A * B	Total cost equivalent (D) = C * wage [29]
227.205(c)—Storage facilities for EEBAs—Railroads to keep a copy of the instructions at their system headquarters for FRA inspection.	128 railroads	43 instruction copies	1 minute	.72	$56.10
227.207(a)—Railroad's program for inspection, maintenance, and replacement of EEBAs; requirements for procedures—Written program for inspection, maintenance, and replacement of EEBAs.	The paperwork burden for this requirement is covered under § 227.211.				
—(b) Inspection procedures and records—Tag or label that is attached to the storage facility for the EEBA or kept with the EEBA or in inspection reports stored as paper or electronic files.	128 railroads	10,000 inspection records.	30 seconds	83.33	$6,492.24
—(d) Records of returns, maintenance, repair, and replacement—Recordkeeping and retention.	128 railroads	180 records	30 seconds	1.50	$116.87
227.209(a)—Railroad's program of instruction on EEBAs—Written program of instruction on EEBAs.	The paperwork burden for this requirement is covered under § 227.211.				
—(d) Records of instruction—Railroad to maintain a record of employees provided instruction in compliance with this section and retain these records for three years [30].	128 railroads	20,000 initial training records.	3 minutes	1,000.00	$62,670.00
—(d) Records of intervals for periodic instruction.	128 railroads	2,000 refresher or new hire training records.	3 minutes	100.00	$6,267.00
227.211(a), (b) and (d)—Requirement to implement a general EEBA program; criteria for placing employees in the general EEBA program—Comprehensive written program.	128 railroads	45.67 written programs (2.33 Class I railroads' programs + 42.33 Class II and III railroads' programs + 1 generic program developed by ASLRRA).	80 hours + 2 hours + 80 hours	351.33	$30,167.83

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden (hours) (C) = A * B	Total cost equivalent (D) = C * wage [29]
—(c) Records of positions or individuals or both in the railroad's general EEBA—Designated employees by the railroad to be placed in its general EEBA program pursuant to § 227.211(b)(4).	The paperwork burden for this requirement is covered under §§ 227.201 and 227.209.				
227.213—Employee's responsibilities—Notification to railroad of EEBA failures and of use incidents in a timely manner.	128 railroads	1 notification	1 minute	.02	$1.25
227.215(b)—Recordkeeping in general—Electronic records to meet FRA requirements.	18 railroads	6 modified systems	1 hour	6.00	$467.46
—(b)(5) Paper copies of electronic records and amendments to those records are made available for inspection and copying or photocopying by representatives of FRA.	128 railroads	43 copies	15 minutes	10.75	$837.53
Total [31]	128 railroads	32,962 responses	N/A	1,670	$116,114

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), FRA solicits comments concerning: whether these information collection requirements are necessary for the proper performance of the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized. Organizations and individuals desiring to submit comments on the collection of information requirements or to request a copy of the paperwork package submitted to OMB should contact Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal. FRA is not authorized to impose a penalty on persons for violating information collection requirements that do not display a current OMB control number, if required.

F. Compliance With the Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of

[29] The dollar equivalent cost is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

[30] The associated burden related to employees' training are calculated under the economic cost of the regulation.

[31] Totals may not add up due to rounding.

$100,000,000 or more (adjusted annually for inflation) in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. This proposed rule will not result in such an expenditure, and thus preparation of such a statement is not required.

G. Environmental Assessment

FRA has evaluated this proposed rule in accordance with the National Environmental Policy Act [32] (NEPA), the Council of Environmental Quality's NEPA implementing regulations,[33] and FRA's NEPA implementing regulations.[34] FRA has determined that this proposed rule is categorically excluded from environmental review and therefore does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS). Categorical exclusions (CEs) are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an EA or EIS.[35] Specifically, FRA has determined that this proposed rule is categorically excluded from detailed environmental review.[36]

This rulemaking would not directly or indirectly impact any environmental resources and would not result in significantly increased emissions of air or water pollutants or noise. In analyzing the applicability of a CE, FRA must also consider whether unusual circumstances are present that would warrant a more detailed environmental review.[37] FRA has concluded that no such unusual circumstances exist with respect to this proposed rule and it meets the requirements for categorical exclusion.[38]

Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties.[39] FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by Section 4(f).[40] Further, FRA reviewed this proposed rulemaking and found it consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad.[41]

H. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' (66 FR 28355, May 22, 2001). FRA evaluated this proposed rule in accordance with Executive Order 13211 and determined that this proposed rule is not a ''significant energy action'' within the meaning of Executive Order 13211.

I. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice, which can be reviewed at *http://www.dot.gov/privacy.* To facilitate comment tracking and response, FRA encourages commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

J. Analysis Under 1 CFR Part 51

As required by 1 CFR 51.5, FRA has summarized the standards it is incorporating by reference in the section-by-section analysis in this preamble. These standards summarized herein, are reasonably available to all interested parties for inspection. Copies can be obtained from the International Organization for Standardization, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, telephone +41–22–749–08–88 or *https://www.iso.org/standard/50245.htmland* from the British Standards Institution, 12110 Sunset Hills Road, Suite 200, Reston, VA 20190–5902, telephone: 800–862–4977 or *http://shop.bsigroup.com.* They are also available for inspection at the Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; phone: (202) 493–6052; email: *FRALegal@dot.gov.*

K. Executive Order 12898 (Environmental Justice)

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' [42] and DOT Order 5610.2C [43] require DOT agencies to achieve environmental justice as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations. The DOT Order instructs DOT agencies to address compliance with Executive Order 12898 and requirements within the DOT Order in rulemaking activities, as appropriate, and also requires consideration of the benefits of transportation programs, policies, and other activities where minority populations and low-income populations benefit, at a minimum, to the same level as the general population as a whole when determining impacts on minority and low-income populations. FRA has evaluated this proposed rule under Executive Order 12898 and the DOT Order and has determined it would not cause disproportionately high and adverse human health and environmental effects on minority populations or low-income populations.

L. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000. The proposed rule 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 laws. Therefore, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

List of Subjects in 49 CFR Part 227

Hazardous materials transportation, Incorporation by reference, Locomotive noise control, Occupational safety and health, Penalties, Railroad employees,

[32] 42 U.S.C. 4321 *et seq.*

[33] 40 CFR parts 1500–1508.

[34] 23 CFR part 771.

[35] 40 CFR 1508.4.

[36] See 23 CFR 771.116(c)(15) (categorically excluding ''[p]romulgation of rules, the issuance of policy statements, the waiver or modification of existing regulatory requirements, or discretionary approvals that do not result in significantly increased emissions of air or water pollutants or noise'').

[37] 23 CFR 771.116(b).

[38] 23 CFR 771.116(c)(15).

[39] *See* 54 U.S.C. 306108.

[40] *See* Department of Transportation Act of 1966, as amended (Pub. L. 89–670, 80 Stat. 931); 49 U.S.C. 303.

[41] 86 FR 7619 (Feb. 1, 2021).

[42] 59 FR 7629 (Feb. 16, 1994).

[43] Available at: *https://www.transportation.gov/sites/dot.gov/files/Final-for-OST-C-210312-003-signed.pdf.*

Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 227 of chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 227—OCCUPATIONAL SAFETY AND HEALTH IN THE LOCOMOTIVE CAB

■ 1. The authority citation for part 227 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20103 note, 20166, 20701–20703, 21301, 21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Revise the heading for part 227 to read as set forth above.

■ 3. Revise § 227.1 to read as follows:

§ 227.1 Purpose and scope.

(a) *General.* The purpose of this part is to protect the occupational safety and health of certain employees who are exposed to occupational dangers while in the cab of the locomotive. This part prescribes minimum Federal safety and health standards for certain locomotive cab occupants. This part does not restrict a railroad or railroad contractor from adopting and enforcing additional or more stringent requirements.

(b) *Subpart B.* The purpose of subpart B is to protect the occupational safety and health of employees whose predominant noise exposure occurs in the locomotive cab. This subpart prescribes minimum Federal safety and health noise standards for locomotive cab occupants.

(c) *Subpart C.* The purpose of subpart C is to protect the occupational safety and health of train employees and certain other employees in the cab of the locomotive of a freight train that is transporting a PIH material that, if released due to a railroad accident/incident, would pose an inhalation hazard to the occupants. In particular, subpart C is intended to protect these employees from the risk of exposure to the material while they are located in, or during escape from, the locomotive cab.

■ 4. Revise paragraph (a), the introductory text of paragraph (b), and paragraph (b)(5), and add paragraphs (c) and (d) to read as follows:

§ 227.3 Application.

(a) Except as provided in paragraph (b) of this section, Subpart B of this part applies to all railroads and contractors to railroads.

(b) Subpart B of this part does not apply to—

* * * * *

(5) Foreign railroad operations that meet the following conditions: Employees of the foreign railroad have a primary reporting point outside of the U.S. but are operating trains or conducting switching operations in the U.S.; and the government of that foreign railroad has implemented requirements for hearing conservation for railroad employees; the foreign railroad undertakes to comply with those requirements while operating within the U.S.; and FRA's Associate Administrator for Railroad Safety/Chief Safety Officer determines that the foreign requirements are consistent with the purpose and scope of subpart B of this part. A ''foreign railroad'' refers to a railroad that is incorporated in a place outside the U.S. and is operated out of a foreign country but operates for some distance in the U.S.

(c) Except as provided in paragraph (d) of this section, subpart C of this part applies to any railroad that operates a freight train that transports a PIH material, including a residue of such a PIH material, on standard gage track that is part of the general railroad system of transportation.

(d) Subpart C of this part does not apply to a railroad that operates only on track inside an installation that is not part of the general railroad system of transportation.

■ 5. In § 227.5, add, in alphabetical order, definitions for ''accident/incident'', ''Associate Administrator for Railroad Safety/Chief Safety Officer'', ''atmosphere immediately dangerous to life or health (IDLH)'', ''atmosphere-supplying device'', ''deadheading'', ''division headquarters'', ''emergency escape breathing apparatus or EEBA'', ''foreign railroad'', ''freight car'', ''freight train'', ''hazardous material'', ''hazardous employee'', ''In service or in-service'', ''intermodal container'', ''ISO'', ''NIOSH'', ''PIH material'', ''residue'', ''state'', ''switching service'', ''system headquarters'', ''train employee'', and ''United States'' to read as follows:

§ 227.5 Definitions.

As used in this part—

Accident/incident has the meaning that is assigned to that term by § 225.5 of this chapter.

* * * * *

Associate Administrator for Railroad Safety/Chief Safety Officer means the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

Atmosphere immediately dangerous to life or health (IDLH) means an atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere. *Atmosphere-supplying device* means a respirator that supplies the respirator user with breathing air from a source that is independent of the ambient atmosphere. Such devices include supplied-air respirators and self-contained breathing apparatus units.

* * * * *

Deadheading means the physical relocation of a train employee from one point to another as a result of a railroad-issued oral or written directive.

Division headquarters means the location designated by the railroad where a high-level operating manager (*e.g.,* a superintendent, division manager, or equivalent), who has jurisdiction over a portion of the railroad, has an office.

Emergency escape breathing apparatus or *EEBA* means an atmosphere-supplying respirator device that is designed for use only during escape from a hazardous atmosphere.

* * * * *

Freight car means a vehicle designed to transport freight, or railroad personnel, by rail and includes, but is not limited to, a—

(1) Box car;
(2) Refrigerator car;
(3) Ventilator car;
(4) Stock car;
(5) Gondola car;
(6) Hopper car;
(7) Flat car;
(8) Special car;
(9) Caboose;
(10) Tank car; and
(11) Yard car.

Freight train means one or more locomotives coupled with one or more freight cars, except during switching service.

Hazardous material has the meaning assigned to that term by § 171.8 of this title.

Hazmat employee has the meaning assigned to that term by § 171.8 of this title.

* * * * *

In service or *in-service* when used in connection with a freight train, means each freight train subject to this part unless the train—

(1) Is in a repair shop or on a repair track;

(2) Is on a storage track and its cars are empty; or

(3) Has been delivered in interchange but has not been accepted by the receiving carrier.

Intermodal container means a freight container designed and constructed to permit it to be used interchangeably in two or more modes of transportation.

ISO means the International Organization for Standardization, a network of national standards institutes in 162 countries, including the United States through the American National Standards Institute, that develops international standards to assist in ensuring the safe performance of a wide range of devices, including EEBAs.

* * * * *

NIOSH means the National Institute for Occupational Safety and Health, a Federal agency responsible for conducting research and making recommendations for the prevention of work-related injury and illness, which is part of the Centers for Disease Control and Prevention in the U.S. Department of Health and Human Services and which certifies industrial-type respirators in accordance with the NIOSH respiratory regulations (42 CFR part 84 (June 8, 1995)).

* * * * *

PIH material means any of the hazardous materials that are a gas, liquid, or other material defined as a ''material poisonous by inhalation'' by § 171.8 of this title.

* * * * *

Residue has the meaning assigned to the term by § 171.8 of this title.

* * * * *

State means a State of the United States of America or the District of Columbia.

* * * * *

Switching service means the classification of freight cars according to commodity or destination; assembling of cars for train movements; changing the position of cars for purposes of loading, unloading, or weighing; placing of locomotives and cars for repair or storage; or moving of rail equipment in connection with work service that does not constitute a freight train movement.

System headquarters means the location designated by the railroad as the general office for the railroad system.

* * * * *

Train employee means an individual who is engaged in or connected with the movement of a train, including a hostler, as defined in 49 U.S.C. 21101.

* * * * *

United States means all of the States and the District of Columbia.

■ 6. Remove and reserve § 227.7.

§ 227.7 [Removed and Reserved]

■ 7. Amend § 227.15 by revising paragraph (b) to read as follows:

§ 227.15 Information collection.

* * * * *

(b) The information collection requirements are found in the following sections: §§ 227.13, 227.103, 227.107, 227.109, 227.111, 227.117, 227.119, 227.121, 227.201, 227.203, 227.205, 227.207, 227.209, 227.211, 227.213, and 227.215.

■ 8. Amend § 227.103 by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 227.103 Noise monitoring program.

(a) * * *

(1) Class I, passenger, and commuter railroads no later than February 26, 2008.

(2) Railroads with 400,000 or more annual employee hours that are not Class I, passenger, or commuter railroads no later than August 26, 2008.

* * * * *

■ 9. Amend § 227.109 by revising paragraph (e)(2)(i) to read as follows:

§ 227.109 Audiometric testing program.

* * * * *

(e) * * *

(2) * * *

(i) For all employees without a baseline audiogram as of February 26, 2007, Class I, passenger, and commuter railroads, and railroads with 400,000 or more annual employee hours shall establish a valid baseline audiogram by February 26, 2009; and railroads with less than 400,000 annual employee hours shall establish a valid baseline audiogram by February 26, 2010.

* * * * *

■ 10. Amend § 227.119 by revising paragraph (b)(2) to read as follows:

§ 227.119 Training program.

* * * * *

(b) * * *

(2) For employees hired on or before February 26, 2007, by Class I, passenger, and commuter railroads, and railroads with 400,000 or more annual employee hours, by no later than February 26, 2009;

* * * * *

■ 11. Add subpart C to part 227 to read as follows:

Subpart C—Emergency Escape Breathing Apparatus Standards

Sec.

227.201 Criteria for requiring availability of EEBAs in the locomotive cab.
227.203 Criteria for selecting EEBAs.
227.205 Storage facilities for EEBAs.
227.207 Railroad's program for inspection, maintenance, and replacement of EEBAs; requirements for procedures.
227.209 Railroad's program of instruction on EEBAs.
227.211 Requirement to implement a general EEBA program; criteria for placing employees in the general EEBA program.
227.213 Employee's responsibilities.
227.215 Recordkeeping in general.
227.217 Compliance dates.
227.219 Incorporation by reference.

Subpart C—Emergency Escape Breathing Apparatus Standards

§ 227.201 Criteria for requiring availability of EEBAs in the locomotive cab.

(a) *In general.* (1)(i) Except as specified in paragraph (b) of this section, a railroad is required to provide an EEBA to each of the following of its employees while the employee is located in the cab of a locomotive of an in-service freight train transporting a PIH material, including a residue of a PIH material:

(1) Any train employee;

(2) Any direct supervisor of the train employee;

(3) Any employee who is deadheading; and

(4) Any other employee designated by the railroad in writing and at the discretion of the railroad.

(ii) Each EEBA provided to an employee identified in paragraph (a)(1)(i) of this section must meet the EEBA-selection criteria of § 227.203 and must have been inspected and be in working order pursuant to the requirements of § 227.207 at the time that the EEBA is provided to the employee.

(2) Except as specified in paragraph (b) of this section, a railroad shall not use a locomotive to transport a PIH material, including a residue of a PIH material, in an in-service freight train unless each of the employees identified in paragraph (a)(1)(i) of this section while occupying a locomotive cab of the train has access to an EEBA that satisfies the EEBA selection criteria in § 227.203 and that has been inspected and is in working order pursuant to the requirements in § 227.207.

(b) *Exceptions.* (1) A railroad is not required to provide an EEBA, or make accessible an EEBA, to an employee while in the locomotive cab of an in-service freight train transporting a PIH material if all of the PIH materials in the train, including a residue of a PIH material, are being transported in one or more intermodal containers.

(2) This subpart does not apply to any of the following:

(i) Employees who are moving a locomotive or group of locomotives coupled to a car or group of cars transporting a PIH material, including a

residue of a PIH material, only within the confines of a locomotive repair or servicing area.

(ii) Employees who are moving a locomotive or group of locomotives coupled to a car or group of cars transporting a PIH material, including a residue of a PIH material for distances of less than 100 feet for inspection or maintenance purposes.

(c) Notwithstanding any exceptions identified in this subpart, any employee who willfully tampers with or vandalizes an EEBA shall be subject to this subpart for purposes of enforcement relating to § 227.213 (Employee's responsibilities).

§ 227.203 Criteria for selecting EEBAs.

In selecting the appropriate EEBA to provide to an employee, the railroad shall do the following:

(a) Select an atmosphere-supplying EEBA that protects against all PIH materials (including their residue) that are being transported by the freight train while in service.

(b) Ensure that the type of respirator selected meets the requirements of paragraph (c)(1) of this section regarding minimum breathing capacity and is—

(1) Certified for an escape only purpose by NIOSH pursuant to 42 CFR part 84, or

(2) Declared by the manufacturer, based on verifiable testing by the manufacturer or an independent third party, to meet the criteria established by one of the following:

(i) ISO 23269–1:2008(E) (incorporated by reference, see § 227.219);

(ii) BS EN 13794:2002 E (incorporated by reference, see § 227.219); or

(iii) BS EN 1146:2005: E (incorporated by reference, see § 227.219).

(c) Document, and provide such documentation for inspection by FRA upon request, the rationale for the final selection of an EEBA by addressing each of the following concerns:

(1) *Breathing time.* Each EEBA must be fully charged and contain a minimum breathing capacity of 15 minutes at the time of the pre-trip inspection required under § 227.207(a)(1).

(2) *Head and neck protection.* The EEBA selected must provide a means of protecting the individual's head and neck from the irritating effects of PIH materials to facilitate escape.

(3) *Accommodation for eyeglasses and a range of facial features.* The EEBA selected must provide a means of protecting each employee who is required to be provided with the EEBA, including those who wear glasses, and allow for the reasonable accommodation of each such employee's facial features, including facial hair.

§ 227.205 Storage facilities for EEBAs.

(a) A railroad may not use a locomotive if it is part of an in-service freight train transporting a PIH material, including a residue of a PIH material, and the locomotive cab is occupied by an employee identified in § 227.201(a)(1)(i)(A)–(D) (subject employee), unless the locomotive cab has appropriate storage facilities to hold the number of EEBAs required to be provided.

(b) The storage facility for each required EEBA must—

(1) Prevent deformation of the face piece and exhalation valve, where applicable;

(2) Protect the EEBA from incidental damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals;

(3) Provide each subject employee located in the locomotive cab with ready access to the EEBA during an emergency; and

(4) Provide a means for each subject employee to locate the EEBA under adverse conditions such as darkness or disorientation.

(c) A railroad must comply with the applicable manufacturer's instructions for storage of each required EEBA and must keep a copy of the instructions at its system headquarters for FRA inspection.

§ 227.207 Railroad's program for inspection, maintenance, and replacement of EEBAs; requirements for procedures.

(a) *General.* Each railroad shall establish and comply with a written program for inspection, maintenance, and replacement of EEBAs that are required under this subpart. The program for inspection, maintenance, and replacement of EEBAs shall be maintained at the railroad's system headquarters and shall be amended, as necessary, to reflect any significant changes. This program shall include the following procedures:

(1) Procedures for performing and recording a pre-trip inspection of each EEBA that is required to be provided on a locomotive being used to transport a PIH material and procedures for cleaning, replacing, or repairing each required EEBA, if necessary, prior to its being provided under § 227.201(a);

(2) Procedures for performing and recording periodic inspections and maintenance of each required EEBA in a manner and on a schedule in accordance with the manufacturer's recommendations; and

(3) Procedures for turning in and obtaining a replacement for a defective, failed, or used EEBA and for recording those transactions.

(b) *Inspection procedures and records.* (1) A railroad's procedures for pre-trip and periodic inspections of EEBAs shall require that the following information about each pre-trip and periodic inspection be accurately recorded on a tag or label that is attached to the storage facility for the EEBA or kept with the EEBA or in inspection reports stored as paper or electronic files:

(i) The name of the railroad performing the inspection;

(ii) The date that the inspection was performed;

(iii) The name and signature of the individual who made the inspection;

(iv) The findings of the inspection;

(v) The required remedial action; and

(vi) A serial number or other means of identifying the inspected EEBA.

(2) A railroad shall maintain an accurate record of each pre-trip and periodic inspection required by this section. Pre-trip inspection records shall be retained for a period of 92 days. Periodic inspection records shall be retained for a period of one year.

(c) *Procedures applicable if EEBA fails an inspection or is used.* An EEBA that fails an inspection required by this section, is otherwise found to be defective, or is used, shall be removed from service and be discarded, repaired, adjusted, or cleaned in accordance with the following procedures:

(1) Repair, adjustment, and cleaning of EEBAs shall be done only by persons who are appropriately trained to perform such work and who shall use only the EEBA manufacturer's approved parts designed to maintain the EEBA in compliance with one of the following standards:

(i) NIOSH at 42 CFR part 84;

(ii) ISO 23269–1:2008(E) (incorporated by reference, see § 227.219);

(iii) BS EN 1146:2005: E (incorporated by reference, see § 227.219); or

(iv) BS EN 13794:2002 E (incorporated by reference, see § 227.219).

(2) Repairs shall be made according to the manufacturer's recommendations and specifications for the type and extent of repairs to be performed.

(3) Where applicable, reducing and admission valves, regulators, and alarms shall be adjusted or repaired only by the manufacturer or a technician trained by the manufacturer.

(d) *Records of returns, maintenance, repair, and replacement.* A railroad shall—

(1) Maintain an accurate record of return, maintenance, repair, or replacement for each EEBA required by this subpart; and

(2) Retain each of these records for three years.

§ 227.209 Railroad's program of instruction on EEBAs.

(a) *General.* (1) A railroad shall adopt and comply with its written program of instruction on EEBAs for all of its employees in its general EEBA program under § 227.211 (subject employees). The program of instruction shall be maintained at the railroad's system headquarters and shall be amended, as necessary, to reflect any significant changes.

(2) This program may be integrated with the railroad's program of instruction on operating rules under § 217.11 of this chapter or its program of instruction for hazmat employees under § 172.704 of this title. If the program is not integrated with either of these programs, it must be written in a separate document that is available for inspection by FRA.

(b) *Subject matter.* The railroad's program of instruction shall require that the subject employees demonstrate knowledge of at least the following:

(1) Why the EEBA is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the EEBA.

(2) The capabilities and limitations of the EEBA, particularly the limited time for use.

(3) How to use the EEBA effectively in emergency situations, including situations in which the EEBA malfunctions.

(4) How to inspect, put on, remove, and use the EEBA, and how to check the seals of the EEBA.

(5) Procedures for maintenance and storage of the EEBA that must be followed.

(6) The EEBA-selection criteria in § 227.203.

(7) The requirements of this subpart related to the responsibilities of employees and the rights of employees to have access to records.

(8) The hazardous materials classified as PIH materials.

(c) *Dates of initial instruction and intervals for periodic instruction.* (1) The instruction for current subject employees shall be provided on an initial basis no later than 30 days prior to the date of compliance identified in § 227.217. Initial instruction of new subject employees shall occur either 30 days prior to the date of compliance identified in § 227.217 or before assignment to jobs where the deployment of EEBAs on a locomotive is required, whichever is later.

(2) Initial instruction shall be supplemented with periodic instruction at least once every three years.

(d) *Records of instruction.* A railroad shall maintain a record of employees provided instruction in compliance with this section and retain these records for three years.

§ 227.211 Requirement to implement a general EEBA program; criteria for placing employees in the general EEBA program.

(a) *In general.* A railroad shall adopt and comply with a comprehensive, written, general program to implement this subpart that shall be maintained at the railroad's system headquarters. Each railroad shall amend its general EEBA program, as necessary, to reflect any significant changes.

(b) *Elements of the general EEBA program and criteria for placing employees in program.* A railroad's general EEBA program shall—

(1) Identify the individual that implements and manages the railroad's general EEBA program by title. The individual must have suitable training and sufficient knowledge, experience, skill, and authority to enable him or her to manage properly a program for provision of EEBAs. If the individual is not directly employed by the railroad, the written program must identify the business relationship of the railroad to the individual fulfilling this role.

(2) Describe the administrative and technical process for selection of EEBAs appropriate to the hazards that may be reasonably expected.

(3) Describe the process used to procure and provide EEBAs in a manner to ensure the continuous and ready availability of an EEBA to each of the railroad's employees identified in § 227.201(a)(1)(i)(A)–(D) (while actually occupying the locomotive cab of a freight train in service transporting a PIH material). This description shall include—

(i) A description of the method used for provision of EEBAs, including whether the EEBAs are individually assigned to employees, installed on locomotives as required equipment, or provided by other means. If EEBAs are installed on locomotives as required equipment, the means of securement shall be designated.

(ii) The decision criteria used by the railroad to identify trains in which provision of EEBAs is not required.

(iii) A description of what procedures will govern the railroad at interchange to ensure that the locomotive cab in each in-service freight train transporting a PIH material has an EEBA accessible to each of the employees identified in § 227.201(a)(1)(i)(A)–(D) while in the cab of the locomotive, including what procedures are in place to ensure that the EEBAs provided satisfy the EEBA-selection criteria in § 227.203, satisfy the EEBA-storage criteria in § 227.205, and have been inspected and are in working order pursuant to the requirements in § 227.207.

(4) Ensure that each of the following employees, except those excluded by § 227.201(b), whose duties require regular work in the locomotive cabs of in-service freight trains transporting a PIH material, including a residue of a PIH material, has the required EEBA available when they occupy the cab of such a train and know how to use the EEBA:

(i) Employees who perform service subject to 49 U.S.C. 21103 (train employees) on such trains;

(ii) Direct supervisors of train employees on such trains;

(iii) Deadheading employees on such trains; and

(iv) Any other employees designated by the railroad in writing and at the discretion of the railroad.

(c) *Records of positions or individuals or both in the railroad's general EEBA program.* A railroad shall maintain a record of all positions or individuals, or both, who are designated by the railroad to be placed in its general EEBA program pursuant to § 227.211(b)(4). The railroad shall retain these records for the duration of the designation and for one year thereafter.

(d) *Consolidated programs.* A group of two or more commonly controlled railroads subject to this subpart may request in writing that the Associate Administrator for Railroad Safety/Chief Safety Officer (Associate Administrator) treat them as a single railroad for purposes of adopting and complying with the general EEBA program required by this section. The request must list the parent corporation that controls the group of railroads and demonstrate that the railroads operate in the United States as a single, integrated rail system. The Associate Administrator will notify the railroads of his or her decision in writing.

§ 227.213 Employee's responsibilities.

(a) An employee to whom the railroad provides an EEBA shall—

(1) Participate in training under § 227.209;

(2) Follow railroad procedures to ensure that the railroad's EEBAs—

(i) Are maintained in a secure and accessible manner;

(ii) Are inspected as required by this subpart and the railroad's program of inspection; and

(iii) If found to be unserviceable upon inspection, are turned in to the appropriate railroad facility for repair, periodic maintenance, or replacement; and

(3) Notify the railroad of EEBA failures and of use incidents in a timely manner.

(b) No employee shall willfully tamper with or vandalize an EEBA that is provided pursuant to § 227.201(a) in an attempt to disable or damage the EEBA.

§ 227.215 Recordkeeping in general.

(a) *Availability of records.* (1) A railroad shall make all records required by this subpart available for inspection and copying or photocopying to representatives of FRA, upon request.

(2) Except for records of pre-trip inspections of EEBAs under § 227.207, records required to be retained under this subpart must be kept at the system headquarters and at each division headquarters where the tests and inspections are conducted.

(b) *Electronic records.* All records required by this subpart may be kept in electronic form by the railroad. A railroad may maintain and transfer records through electronic transmission, storage, and retrieval provided that all of the following conditions are met:

(1) The electronic system is designed so that the integrity of each record is maintained through appropriate levels of security such as recognition of an electronic signature, or other means, which uniquely identify the initiating person as the author of that record. No two persons have the same electronic identity.

(2) The electronic system ensures that each record cannot be modified in any way, or replaced, once the record is transmitted and stored.

(3) Any amendment to a record is electronically stored apart from the record that it amends. Each amendment to a record is uniquely identified as to the individual making the amendment.

(4) The electronic system provides for the maintenance of records as originally submitted without corruption or loss of data.

(5) Paper copies of electronic records and amendments to those records that may be necessary to document compliance with this subpart are made available for inspection and copying or photocopying by representatives of FRA.

§ 227.217 Compliance dates.

(a) Class I railroads subject to this subpart are required to comply with this subpart beginning no later than 12 months from the effective date of the final rule.

(b) Class II railroads subject to this subpart are required to comply with this subpart beginning no later than 12 months from the effective date of the final rule.

(c) Class III railroads subject to this subpart and any other railroads subject to this subpart are required to comply with this subpart beginning no later than 18 months from the effective date of the final rule.

§ 227.219 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. This incorporation by reference (IBR) material is available for inspection at the FRA and the National Archives and Records Administration (NARA). Contact FRA at: Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; phone: (202) 493–6052; email: *FRALegal@dot.gov*. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov*.Error! Hyperlink reference not valid. The material may be obtained from the following sources:

(b) International Organization for Standardization, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, telephone +41–22–749–08–88 or *https://www.iso.org/standard/50245.html.*

(1) ISO 23269–1:2008(E), Ships and marine technology—Breathing apparatus for ships—Part 1: Emergency escape breathing devices (EEBD) for shipboard use, First Edition, February 1, 2008;, into §§ 227.203(b) and 227.207(c).

(2) [Reserved]

(c) The British Standards Institution, 12110 Sunset Hills Road, Suite 200, Reston, VA 20190–5902, telephone: 800–862–4977 or *http://shop.bsigroup.com.*

(1) BS EN 13794:2002 E, Respiratory Protective Devices—Self-Contained, Closed-Circuit Breathing Apparatus for Escape—Requirements, Testing, Marking, November 2002 §§ 227.203(b) and 227.207(c).

(2) BS EN 1146:2005: E, Respiratory Protective Devices—Self-Contained, Open-Circuit Compressed Air Breathing Apparatus Incorporating a Hood for Escape—Requirements, Testing, Marking; September 2005; into §§ 227.203(b) and 227.207(c).

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–05074 Filed 3–21–23; 8:45 am]

BILLING CODE 4910–06–P

FEDERAL REGISTER

Vol. 88 Wednesday,

No. 55 March 22, 2023

Part III

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 204, 208, et al.

Defense Federal Acquisition Regulation Supplements: Use of Supplier Performance Risk System (SPRS) Assessments (DFARS Case 2019–D009); Noncommercial Computer Software (DFARS Case 2018–D018); Ground and Flight Risk (DFARS Case 2020–D027); Contract Administration Office Functions Relating to Direct Costs (DFARS Case 2022–D021); Technical Amendments; Export-Controlled Items (DFARS Case 2018–D053); Restrictions on Overhaul and Repair of Naval Vessels in Foreign Shipyards (DFARS Case 2021–D021); Final Rules and Proposed Rules

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 208, 209, 212, 213, 215, 216, and 252

[Docket DARS–2020–0027]

RIN 0750–AK44

Defense Federal Acquisition Regulation Supplement: Use of Supplier Performance Risk System (SPRS) Assessments (DFARS Case 2019–D009)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update the policy and procedures for use of the Supplier Performance Risk System and to require contracting officers to consider SPRS risk assessments, if available, in the evaluation of a supplier's quotation or offer and to consider SPRS supplier risk assessments when determining contractor responsibility.

DATES: Effective March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Heather Kitchens, telephone 571–296–7152.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 85 FR 53748 on August 31, 2020, to amend the DFARS to require contracting officers to consider Supplier Performance Risk System (SPRS) risk assessments during evaluation of quotations or offers and to consider the SPRS supplier risk assessment in the evaluation of contractor responsibility. Two respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided, as follows.

A. Summary of Significant Changes From the Proposed Rule

As a result of public comments, there are changes from the proposed rule in the final rule to clarify applicability of the rule. Additionally, editorial and clarifying changes were made in the final rule as discussed in paragraph C of this preamble.

B. Analysis of Public Comments

a. Solicitation Provision Applicability

Comment: One respondent commented that the prescription for solicitation provision 252.204–70XX, Notice to Prospective Suppliers on the Use of the Supplier Performance Risk System in Performance Evaluations, should be updated at DFARS 204.7X04 to state that the provision is for use in solicitations using FAR part 13 simplified acquisition procedures, including solicitations for supplies and services using FAR part 12 procedures for the acquisition of commercial items, to align with DFARS 204.7X02, Applicability.

Response: The final rule revises DFARS 204.7602, Applicability, to align with the solicitation provision prescription at DFARS 204.7604 and the stated intent of the rule to move the coverage from part 213 to a new subpart 204.76, as described in the preamble of the proposed rule. Section 204.7602 states that use of SPRS risk assessments is required for the evaluation of quotations or offers in response to solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services. DFARS 204.7602, as revised, does not limit applicability of use of SPRS risk assessments to acquisitions using FAR part 13 simplified acquisition procedures; therefore, the recommended change to the solicitation provision prescription at DFARS 204.7604 will not be made.

The solicitation provision is prescribed for use in solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services. To clarify that the provision also applies to solicitations using FAR part 13 simplified acquisition procedures, the rule revises the language in part 213 at 213.106–2, paragraph (b)(i), to provide a cross-reference to 204.7603 and to require contracting officers to consider SPRS risk assessments as a basis of award for solicitations using FAR part 13 simplified acquisition procedures, and obsolete language is removed. Further, to more clearly reflect that the intended purpose of the provision extends beyond FAR part 13 actions, the provision title is revised to read as follows: 252.204–7024, Notice on the Use of the Supplier Performance Risk System.

The proposed rule, at sections I. and II. of the preamble, stated that SPRS is required to be used to evaluate quotes and offers received under all solicitations for supplies and services. To further clarify applicability of the procedures at DFARS 204.7603 to Federal Supply Schedules, commercial acquisitions, acquisitions using FAR part 13 simplified acquisition procedures, evaluation of offers under part 215, and indefinite-delivery contracts, cross-references to DFARS 204.7603 are added to—

- Subpart 208.4, Federal Supply Schedules;
- Subpart 212.2, Special Requirements for the Acquisition of Commercial Products and Commercial Services;
- Subpart 213.1, Procedures;
- 215.3, Source Selection; and
- Subpart 216.5, Indefinite-Delivery Contracts.

b. SPRS Website

Comment: One respondent commented that Government-Industry Data Exchange Program (GIDEP) alerts are not appropriate measures of quality performance and such data cannot be accurately translated into meaningful risk scores without dissecting each GIDEP report, including supplier letters and enclosures.

Response: GIDEP alerts are only used if they are Government-generated (Agency Action Notice) with a Commercial and Government Entity (CAGE) code reported explicitly for Suspected Counterfeit or Failure Experience. SPRS does not search GIDEP narratives or text. It only searches for data indicating that the item has been identified as suspected counterfeit or has been determined to be a material failure.

Comment: One respondent commented that Mechanization of Contact Administration Services (MOCAS) is not specifically intended to measure on-time delivery performance and will require substantial investment by industry and DoD buying commands to maintain its accuracy and reliability.

Response: SPRS only uses MOCAS records that provide a specific contractor's Commercial and Government Entity (CAGE) code, product service code (PSC), and a required delivery date on a contract line item that can be matched to an actual delivery date. This constrained usage mitigates the concerns the respondent identified.

Comment: One respondent commented that the SPRS system itself may not be able to handle the

administrative and logistical challenges that will arise under its expanded use.

Response: DoD does not expect any issues with increased user traffic as a result of this rule. SPRS has recently experienced a rapid increase in user activity without any system impacts. Publication of this rule will not adversely impact operation of the system or the program office.

C. Other Changes

The following are amplifying changes to the rule that are not based on public comments, but were made to add clarity:

• The term ''overall risk assessments'' at DFARS 204.7602 and 204.7603 was changed to ''risk assessments'' throughout the final rule to use language consistent with the SPRS website.

• Some instances of the terms ''evaluated'' and ''evaluation'' were replaced with the term ''considered'' and ''shall consider'' to clarify that risk assessments are not a mandatory, stand-alone, evaluation factor for source selections and that the contracting officer shall ''consider'' the risk assessments, if available, as part of broader evaluation factors during evaluation of quotations or offers and when determining contractor responsibility.

• DFARS 204.7603, Procedures, was updated to clarify the scope of SPRS risk assessments required to be considered when procuring supplies and services and the scope of SPRS risk assessments required to be considered when procuring an end product (see FAR 2.101) identified by an available material identifier (see Procedures, Guidance, and Information (PGI) 204.7603). The contracting officer shall consider price risk and supplier risk, if available, as part of the award decision. For the procurement of an end product identified by an available material identifier, the contracting officer shall also consider item risk.

• DFARS 204.7603, Procedures, was updated to clarify that contracting officers shall use their discretion in considering the information available in SPRS.

• DFARS 204.7603, Procedures, was updated under paragraph (a), Item Risk, to clarify that a SPRS item risk search is required for any end product that did not have an item risk search performed prior to solicitation to ensure that item risk searches in SPRS only occur if an end product did not have an item risk search performed prior to solicitation; and paragraph (b), Price Risk, applies when procuring a service or an end product identified by an available material identifier.

• An editorial change was made throughout to correct an administrative error by removing the words ''or services'' from the definition of ''item risk'', as item risk does not apply to services.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Services, and for Commercial Products, Including Commercially Available Off-the-Shelf Items

This rule creates a new solicitation provision, DFARS 252.204–7024, Notice on the Use of the Supplier Performance Risk System. The provision at DFARS 252.204–7024 is prescribed at DFARS 204.7604 for use in in solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services. The provision is applicable to acquisitions at or below the simplified acquisition threshold (SAT) and to acquisitions of commercial products, including commercially available off-the-shelf (COTS) items, and commercial services. Not applying this provision to contracts at or below the SAT and for the acquisition of commercial products, including COTS items, and commercial services would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD is applying the rule to contracts below the SAT, for the acquisition of commercial services, and for the acquisition of commercial products, including COTS items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This final rule is necessary to revise the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate the expanded capabilities of the Supplier Performance Risk System (SPRS), made possible by recent technical enhancements. SPRS is a DoD enterprise application that retrieves price, item, quality, delivery, and contractor performance data from Government reporting systems. SPRS collects quality and delivery data from Government systems to develop risk assessments. The system provides three risk assessments for contracting officer use in evaluations of quotations and offers: an item risk assessment, a price risk assessment, and a supplier risk assessment.

The objective of the final rule is to notify offerors, via the new solicitation provision at DFARS 252.204–7024, that SPRS collects performance data from a variety of Government sources on awarded contracts to develop item risk, price risk, and supplier risk assessments for contracting officers to consider during evaluation of quotations or offers. The final rule also requires contracting officers to consider the supplier risk assessment in the determination of contractor responsibility.

No comments were received in response to the initial regulatory flexibility analysis.

The Federal Procurement Data System indicates that in fiscal years 2020 through 2022, DoD awarded an average of 483,364 contracts per year for both products and services, of which an average of 338,039 (approximately 70 percent) were awarded to an average of 22,760 unique small businesses.

This rule does not require any specific reporting, recordkeeping, or compliance requirements.

No significant economic impact on small businesses is anticipated as a result of the final rule. DoD does not expect small entities will be materially affected by this rule. There are no

known significant alternatives to the rule.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 204, 208, 209, 212, 213, 215, 216, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 208, 209, 212, 213, 215, 216, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204, 208, 209, 212, 213, 215, 216, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE AND INFORMATION MATTERS

■ 2. Add subpart 204.76 to read as follows:

Subpart 204.76—Supplier Performance Risk System

204.7600 Scope of subpart.
204.7601 Definitions.
204.7602 Applicability.
204.7603 Procedures.
204.7604 Solicitation provision.

Subpart 204.76—Supplier Performance Risk System

204.7600 Scope of subpart.

This subpart provides policies and procedures for use of the Supplier Performance Risk System (SPRS) risk assessments in the evaluation of a quotation or offer.

204.7601 Definitions.

As used in this subpart—

Item risk means the probability that a product, based on intended use, will introduce performance risk resulting in safety issues, mission degradation, or monetary loss.

Price risk means the measure of whether a proposed price for a product or service is consistent with historical prices paid for that item or service.

Supplier risk means the probability that an award may subject the procurement to the risk of unsuccessful performance or to supply chain risk (see 239.7301).

204.7602 Applicability.

Use of SPRS risk assessments is required for the evaluation of quotations or offers in response to solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, excluding solicitations for the procurement of supplies or services exempted by the Department of Defense Instruction (DoDI) 5000.79, Defense-wide Sharing and Use of Supplier and Product Performance Information. SPRS retrieves item, price, quality, delivery, and contractor information from contracts in Government reporting systems in order to develop risk assessments of contractors. SPRS is available at *https://piee.eb.mil/,* and the SPRS user's guides are available at *https://www.sprs.csd.disa.mil/reference.htm.*

204.7603 Procedures.

The contracting officer shall consider price risk and supplier risk, if available in SPRS, as a part of the award decision. For procurement of an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall also consider assessments of item risk, if available, as a part of the award decision. Offerors or quoters without a risk assessment in SPRS shall not be considered favorably or unfavorably. Contracting officers shall use their discretion in considering the information available in SPRS on item risk, price risk, and supplier risk as follows:

(a) *Item risk.* (1) Consider item risk to determine whether the procurement of products represents a high performance risk to the Government. If an item has a high risk rating, then the SPRS item risk report will display the reason(s) an item is identified as high risk.

(2) Before issuing a solicitation for the procurement of an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall ensure a SPRS item risk search has been performed and shall consider any item risk warnings provided. When evaluating quotations or offers for an end product identified by a material identifier, a SPRS item risk search is required for any end product that did not have an item risk search performed prior to solicitation. If there are item risk warnings, the contracting officer shall consider strategies to mitigate risk, such as the following:

(i) Consulting with the program office.

(ii) Including mitigating requirements in the statement of work, as provided by the requiring activity.

(iii) Including FAR and DFARS clauses identified in the SPRS application, as appropriate.

(b) *Price risk.* (1) When procuring a service or an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall consider price risk assessment in determining if a proposed price is consistent with historical prices paid for an item or otherwise creates a risk to the Government. Contracting officers shall not rely solely on the price risk assessment when determining prices to be fair and reasonable.

(2) The contracting officer shall consider strategies to mitigate price risk, such as the following:

(i) Not awarding to offerors or quoters with high risk price ratings unless there is a way to justify the price through additional price or cost analysis.

(ii) Utilizing appropriate price negotiation techniques and procedures.

(iii) Using price reasonableness or price realism techniques at FAR 13.106 or 15.4. See also 215.403–3 when making award decisions.

(c) *Supplier risk.* The contracting officer shall consider supplier risk, to assess the risk of unsuccessful performance and supply chain risk, in award decisions. Supplier risk assessments in SPRS include quality, delivery, and other contractor performance information.

204.7604 Solicitation provision.

Except for supplies or services exempted by DoDI 5000.79, use the provision at 252.204–7024, Notice on the Use of the Supplier Performance Risk System, in solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 3. Amend section 208.405 by adding paragraph (4) to read as follows:

208.405 Ordering procedures for Federal Supply Schedules.

* * * * *

(4) See 204.7603 for procedures on the required use of the Supplier Performance Risk System (SPRS) risk assessments.

(i) The contracting officer shall ensure SPRS assessments of price risk and supplier risk are considered as a part of the award decision.

(ii) When placing an order with a schedule contractor for an end product identified by a material identifier that is available as described at PGI 204.7603, and item risk was not previously considered during award of the schedule contract, the contracting officer shall also consider SPRS assessments of item risk in the award decision.

(iii) Use the provision at 252.204–7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604 to the extent permitted by the Federal Supply Schedule.

PART 209—CONTRACTOR QUALIFICATIONS

■ 4. Amend section 209.105–1 by revising paragraph (2) to read as follows:

209.105–1 Obtaining information.

* * * * *

(2) A satisfactory performance record is a factor in determining contractor responsibility (see FAR 9.104–1(c)).

(i) One source of information relating to contractor performance is the Contractor Performance Assessment Reporting System (CPARS), available at *https://www.cpars.gov/.*

(ii) Information relating to contract terminations for cause and for default is also available through the Federal Awardee Performance and Integrity Information System (FAPIIS) module of CPARS, available at *https://sam.gov* (see FAR subpart 42.15). This termination information is just one consideration in determining contractor responsibility.

(iii) Contracting officers shall consider the supplier risk assessment available in the Supplier Performance Risk System at *https://piee.eb.mil/* when determining responsibility. See 204.7603(c).

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 5. Amend section 212.203 by adding paragraph (3) to read as follows:

212.203 Procedures for solicitation, evaluation, and award.

* * * * *

(3) See 204.7603 for procedures on the required use of Supplier Performance Risk System risk assessments as part of the award decision.

■ 6. Amend section 212.301 by—

■ a. Adding paragraph (f)(ii)(O);

■ b. Removing paragraph (f)(v); and

■ c. Redesignating paragraphs (f)(vi) through (xx) as paragraphs (f)(v) through (xix).

The addition reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(ii) * * *

(O) Use the provision at 252.204–7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604.

* * * * *

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

■ 7. Revise section 213.106–2 to read as follows:

213.106–2 Evaluation of quotations or offers.

(b)(i) See 204.7603 for procedures on the requirement for contracting officers to consider Supplier Performance Risk System risk assessments as a basis of award.

■ 8. Revise section 213.106–2–70 to read as follows:

213.106–2–70 Solicitation provision.

Use the provision at 252.204–7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604.

PART 215—CONTRACTING BY NEGOTIATION

■ 9. Amend section 215.304 by adding paragraph (c)(viii) to read as follows:

215.304 Evaluation factors and significant subfactors.

(c) * * *

(viii)(A) When procuring supplies or services, the contracting officer shall ensure Supplier Performance Risk System (SPRS) assessments of price risk and supplier risk are considered as a part of the award decision. See 204.7603.

(B) When procuring an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall also consider SPRS assessments of item risk in the award decision.

■ 10. Amend section 215.404–1 by adding paragraph (b)(viii) to read as follows:

215.404–1 Proposal analysis techniques.

* * * * *

(b) * * *

(viii) When procuring a service or an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall consider the Supplier Performance Risk System price risk assessments in determining if a proposed price is consistent with historical prices paid for an item or otherwise creates a risk to the Government. See also 215.403–3(a)(1).

* * * * *

PART 216—TYPES OF CONTRACTS

■ 11. Amend section 216.505 by adding paragraph (a)(S–71) to read as follows:

216.505 Ordering.

(a) * * *

(S–71) See 204.7603 for procedures on the required use of the Supplier Performance Risk System (SPRS) risk assessments.

(i) The contracting officer shall ensure SPRS assessments of price risk and supplier risk are considered as a part of the award decision.

(ii) When placing an order for an end product identified by a material identifier that is available as described at PGI 204.7603, and item risk was not previously considered during award of the contract, the contracting officer shall also consider SPRS assessments of item risk in the award decision.

(iii) Use the provision at 252.204–7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604 to the extent permitted by the contract.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Add section 252.204–7024 to read as follows:

252.204–7024 Notice on the Use of the Supplier Performance Risk System.

As prescribed in 204.7604, use the following provision:

Notice on the Use of the Supplier Performance Risk System (Mar 2023)

(a) *Definitions.* As used in this provision—

Item risk means the probability that a product, based on intended use, will introduce performance risk resulting in safety issues, mission degradation, or monetary loss.

Price risk means a measure of whether a proposed price for a product or service is consistent with historical prices paid for that item or service.

Supplier risk means the probability that an award may subject the procurement to the risk of unsuccessful performance or to supply chain risk (see Defense Federal Acquisition Regulation Supplement 239.7301).

(b) The Supplier Performance Risk System (SPRS), available at *https://piee.eb.mil/,* will be used in the evaluation of the Quoter or Offeror's performance. SPRS retrieves item, price, quality, delivery, and contractor information on contracts from Government

reporting systems in order to develop risk assessments.

(c) The Contracting Officer will consider SPRS risk assessments during the evaluation of quotations or offers received in response to this solicitation as follows:

(1) Item risk will be considered to determine whether the procurement represents a high performance risk to the Government.

(2) Price risk will be considered in determining if a proposed price is consistent with historical prices paid for a product or a service or otherwise creates a risk to the Government.

(3) Supplier risk, including but not limited to quality and delivery, will be considered to assess the risk of unsuccessful performance and supply chain risk.

(d) SPRS risk assessments are generated daily. Quoters or Offerors are able to access their risk assessments by following the access instructions in the SPRS user's guide available at *https://www.sprs.csd.disa.mil/reference.htm.* Quoters and Offerors are granted access to SPRS for their own risk assessment classifications only. SPRS reporting procedures and risk assessment methodology are detailed in the SPRS user's guide. The method to challenge a rating generated by SPRS is also provided in the user's guide. SPRS evaluation criteria are available at *https://www.sprs.csd.disa.mil/pdf/SPRS_DataEvaluationCriteria.pdf.*

(e) The Contracting Officer may consider any other available and relevant information when evaluating a quotation or an offer.

(End of provision)

252.213–7000 [Removed and Reserved]

■ 13. Remove and reserve section 252.213–7000.

[FR Doc. 2023–05671 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 227, 237, 239, and 252

[Docket DARS–2019–0067]

RIN 0750–AK87

Defense Federal Acquisition Regulation Supplement: Noncommercial Computer Software (DFARS Case 2018–D018)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2018.

DATES: Effective March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. David E. Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 87 FR 4546 on January 28, 2022, to implement section 871 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91). Section 871 established new direction at 10 U.S.C. 4576 (formerly 10 U.S.C. 2322a), Requirement for consideration of certain matters during acquisition of noncommercial computer software. The statute requires that DoD, as part of any negotiation for such software, consider all noncommercial computer software and related materials necessary to meet the needs of the agency throughout the life cycle of the software. This rule provides direction to DoD both to improve acquisition planning and to identify and negotiate for software deliverables and license rights at a fair and reasonable price before contract award. Eight respondents submitted public comments in response to the proposed rule. DoD also held a public meeting on March 10, 2022.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided as follows:

A. Summary of Significant Changes From the Proposed Rule

Based on comments received, DFARS 227.7203–2 and the clauses at DFARS 252.227–7014 and 252.227–7018 are revised as follows:

- DFARS 227.7203–2(c)(6)(ii)(A) and (B) and 227.7203–2(c)(6)(iii) are revised to state ''license rights sufficient to meet the Government's needs'', rather than ''all necessary license rights.''
- The list of factors in DFARS 227.7203–2(b)(1)(ii) is revised to include the Government's costs to develop computer software.
- Paragraph (iii) of the definition of ''restricted rights'' in DFARS 252.227–7014 and 252.227–7018 is revised to remove the purposes added in the proposed rule and to permit the Government to make a reasonable number of copies of computer software required for the other purposes authorized under the clause.
- Paragraphs (v) through (vii) of the definition of the of ''restricted rights'' in DFARS 252.227–7014 and 252.227–7018 are revised to expressly indicate that the Government has the right to use computer software and other rights to computer software already provided to covered Government support contractors.

B. Analysis of Public Comments

1. Areas of Alignment With Industry

Comment: One of the respondents noted several areas of alignment between DoD and industry in the proposed rule, including: (1) removal of the definition of the term ''data''; (2) consideration of development at private expense; (3) consideration of alternatives to the formal delivery of source code and software design details; and (4) conformance of the DFARS definition of ''technical data'' to the statutory definition at 10 U.S.C. 3013 (formerly 10 U.S.C. 2302).

Response: DoD acknowledges the respondent's comments.

2. Application to Commercial Computer Software

Comment: Several respondents asserted that a plain language interpretation of 10 U.S.C. 4576 demonstrates that Congress intended for the provision to apply to only noncommercial computer software. Based on this interpretation, the respondents asserted that the proposed rule should not apply to commercial software, contrary to DoD's proposed revisions in DFARS 227.7202–1(d). The respondents also asserted that application of the proposed rule to commercial software is detrimental to the availability of commercial software, creates a barrier for nontraditional contractors, and is inconsistent with the commercial software industry's licensing models. Several respondents also asserted that the term ''all necessary license rights'' in DFARS 227.7203–2(b)(6)(ii)(A) and (B) may be improperly applied to commercial software or misconstrued to mean a government purpose rights license or an unlimited rights license.

Response: DoD acknowledges that 10 U.S.C. 4576 includes express references to noncommercial software and therefore must apply to noncommercial software. However, the statute does not prohibit the prescribed consideration of the Government's life-cycle needs from applying to negotiations for commercial software. Contrary to the respondents' interpretation, paragraph (a) of the statute directs the Government to consider the acquisition of ''all software'' and ''related materials'' necessary to satisfy the Government's needs for certain activities throughout the life cycle of the noncommercial software being acquired, without any

limitations on commerciality of the additional software or related materials. Paragraph (b)(2) of 10 U.S.C. 4576 also indicates that the software deliverables should not rely on external or additional software with no limitations with respect to commerciality of that external or additional software. Similar to the respondents' comments about commercial software, paragraph (b) of the statute explicitly acknowledges circumstances where delivery of software is not feasible. In such cases, the statute and the final rule acknowledge alternative deliverable requirements. Accordingly, the statute may be applied to both noncommercial and commercial software, and the statute considers how DoD may consider and protect the intellectual property (IP) interests of its industry partners (including commercial vendors and nontraditional contractors).

DoD asserts that application of the statutory requirements for the Government to consider acquiring all of the additional software and related materials necessary to meet the Government's needs for deploying, operating, testing, and supporting acquired software over its life cycle is consistent with long-standing policy regarding the acquisition of commercial software. DoD's established policies and practices for acquiring commercial computer software and related documentation recognize that the Government may negotiate for additional deliverables and license rights that are necessary to meet the Government's needs when the standard commercial deliverables or rights do not meet agency needs (see DFARS 227.7202–1(a) and (c) and 227.7202–3(b)). For these reasons, DoD asserts that the final rule should apply to commercial software and documentation, while maintaining the policies set forth in DFARS 227.7202–1(c). The final rule has been revised to emphasize consistency with DFARS 227.7202–1(c), while permitting contracting officers the discretion to consider the factors identified in DFARS 227.7203–2(b) and (c), unless inappropriate under the specific circumstances of the acquisition. Because the final rule is consistent with the policies at DFARS 227.7202–1(c), this facilitates alignment with commercial licensing models, thereby incentivizing commercial vendors to do business with DoD.

In response to the respondents' concerns about the scope of the term ''all necessary license rights'' in DFARS 227.7203–2(b)(6)(ii)(A) and (B), this phrase has been changed to ''license rights sufficient to meet the Government's needs.'' The final rule is consistent with the policies and directives at DFARS 227.7203 and Department of Defense Instruction (DoDI) 5010.44, Intellectual Property (IP) Acquisition and Licensing, which encourage contracting officers to tailor the Government's license rights to the meet agency needs.

3. Minimum Rights

Comment: Several respondents recommended that the proposed rule should retain the term ''minimum'' in the phrase ''the Government's minimum needs'' in DFARS 227.7103–2(b)(1) and 227.7203–2(b)(1). The respondents asserted that removal of this term will be construed as expanding the scope of the Government's needs and encouraging an unbounded consideration of life-cycle needs. The respondents asserted that the Government may risk overpricing its requirements, based on an overly expansive interpretation of the proposed rule. The respondents also posited that an unbounded assessment of life-cycle needs may not consider obsolescence of software due to various factors, including future changes to hardware and software specifications, entrances and exits of software vendors to the market, and new disruptive technologies. One of the respondents also noted that the phrase ''the Government's minimum needs'' reflects long-standing DFARS policy, which was recommended by the Section 807 Committee in 1995.

Response: DoD notes that the proposed revisions were made partially in response to recommendations made in Tension Point Paper 2 in the 2018 Report Government-Industry Advisory Panel on Technical Data Rights (the ''Section 813 Panel Final Report''). In response to the advance notice of proposed rulemaking (ANPR) published at 85 FR 2101 on January 14, 2020, one respondent previously recommended that DoD should adopt the recommendations in Tension Point Paper 2. In Tension Point Paper 2, the Government and industry panel members recommended that the term ''minimum needs'' should be changed to ''lifecycle needs'' in the context of the Government determining its needs, including consideration of alternatives to traditional delivery methods.

As acknowledged by respondents during the public meeting held on March 10, 2022, there are long-standing concerns that the phrase ''the Government's minimum needs'' and the term ''minimum'' in particular, are ambiguous and purportedly misunderstood by contracting officers. Accordingly, the final rule removes the source of the ambiguity by removing ''minimum needs'' and replacing it with ''life-cycle needs.'' In addition, the phrase ''the Government's life-cycle needs'' is aligned with the recitation of ''life cycle'' in 10 U.S.C. 4576, which does not reference ''minimum needs.'' The statute supersedes recommendations made by the Section 807 Committee nearly three decades ago.

In response to the respondents' concerns about the scope of the term ''life-cycle needs,'' DoD notes that the assessment of life-cycle needs is informed and shaped by the considerations and factors in DFARS 227.7103–2(b)(1) and 227.7203–2(b)(1). The final rule further bolsters the list of factors in DFARS 227.7203–2(b)(1)(i) by including the Government's costs to develop computer software.

4. Guidance on Procurement Planning and Solicitation/Contract Requirements

Comment: One respondent expressed concerns that the proposed changes to DFARS 227.7202–1(d) and 227.7203–2(b) and (c) do not adequately address the complex state of software development across innovative, cloud-based technology firms. Another respondent asserted that the proposed rule disregards the value of the IP and investment of software developers. This respondent recommended that the final rule consider how acquisition requirements will impact the willingness of businesses (and specifically small businesses) to do business with the Government. The respondent suggested that DoD's assessments of life-cycle needs should consider incentives for traditional and nontraditional contractors (such as small businesses) to continue to develop computer software solutions at private expense for Government applications and to submit bids for Government contracts.

Another respondent recommended that the proposed rule at DFARS 227.7203–2(b)(2)(ii) should be changed to require consideration of the alternatives to delivery of source code and related software design details listed in DFARS 227.7203–2(b)(2)(ii), rather than merely recommending consideration of alternatives. One respondent also recommended changing the title of this section to ''Alternatives to delivery of source code and related software design details.''

Response: In accordance with 10 U.S.C. 3771 and DoDI 5010.44, the final rule was developed to respect and protect the IP interests and technology investment of industry (including small

businesses and nontraditional contractors), while considering DoD's investments and life-cycle needs. Accordingly, DoD adopted several of the respondents' recommendations. In particular, DFARS 227.7203–2(b)(1)(i) was revised to emphasize the economic interests of small businesses and nontraditional contractors. The final rule also clarifies guidance in the proposed rule related to access to technical data or computer software. The final rule references ''access agreements for cloud-based or subscription-based software products or services'' as an alternative to delivery of source code and design details in DFARS 227.7203–2(b)(2)(ii). The final rule also changes the title of DFARS 227.7203–2(b)(2)(ii), as recommended.

However, DoD has not adopted the respondent's recommendation to change the prescriptive guidance at DFARS 227.7203–2(b)(2)(ii) to require consideration of these alternatives to source code and related software design details. In accordance with FAR 2.101, the term ''should'' denotes that the instruction will be followed unless inappropriate for a particular circumstance. As acknowledged by various respondents, DoD must consider the feasibility or practicality of applying these policies. To that end, the term ''should'' provides contracting officers with the flexibility to consider the specific circumstances or nuances of an acquisition in applying the considerations in DFARS 227.7203–2(b)(2)(ii).

5. Proposed Changes to Part 237

Comment: Some respondents recommended that the proposed rule at DFARS 237.102 should not apply to service contracts, such as software-as-a-service contracts.

Response: DoDI 5000.74, Defense Acquisition of Services, indicates that IP needs must be addressed in acquisition strategies for service contracts. DoDI 5010.44 also indicates that acquisition, licensing, and management of IP is an important factor in acquisition, operation, maintenance, modernization, and sustainment, whether the IP is delivered as a product or as a service. In view of these DoD policies, the prescriptive guidance at DFARS 237.102 merely notes that contracting officers should consider the guidance in 227.7202 and 227.7203, and references existing, long-standing DFARS guidance. For these reasons, DoD has not adopted the respondents' recommendation that the rule should not apply to service contracts.

6. ''Restricted Rights'' Definition

Comment: Several respondents asserted that the revisions to the definition of ''restricted rights'' should be removed. The respondents asserted that the proposed revisions: (1) do not balance the interests of Government and industry; (2) conflict with existing DoD policies and statutes; and (3) are vague and internally inconsistent with respect to the terms ''reasonable'', ''development'', and ''use''. Several respondents indicated that the proposed rule does not adequately protect the developer's economic interests in software developed exclusively at private expense. Some respondents asserted that the proposed rule may impact the economic interests of small businesses and that it will discourage ongoing private investment and the delivery of privately developed software. The respondents also asserted that the proposed rule conflicts with existing DoD policies and statutes (*e.g.,* the statutory preference for specially negotiated licenses and Small Business Innovation Research/Small Business Technology Transfer Programs policy objectives), and is not supported by 10 U.S.C. 3771 and 3206.

Response: DoD notes that the revisions to the ''restricted rights'' definition were made partially in response to recommendations made in Tension Point Paper 13 in the Section 813 Panel Final Report. In response to the ANPR published at 85 FR 2101 on January 14, 2020, one respondent previously recommended that DoD should adopt the recommendation in Tension Point Paper 13. In Tension Point Paper 13, industry panel members agreed that the definition of ''restricted rights'' should be revised to permit the Government to make a ''reasonable'' number of copies to satisfy the Government's life-cycle needs, including DoD's programmatic and operational needs. Although the respondents indicated that the term ''reasonable'' is unbounded or vague, DoD notes that the current term ''minimum'' is also not limited or defined by a specific number of software copies. For these reasons, DoD has not adopted the respondents' recommendation to reinstate the phrase ''minimum number of copies.''

The proposed rule changed the number of copies that the Government is permitted to make for otherwise-authorized activities. The proposed rule does not expand the Government's license rights to distribute or use computer software. Because there are no purpose-based limitations on the Government's use of computer programs in paragraph (i) of the ''restricted rights'' definition, a ''restricted rights'' license permits Government use of computer programs for any purpose. Accordingly, the proposed rule included revisions that sought to reference and provide examples of the Government's authorized purposes and activities provided within the existing rights under the definition of ''restricted rights.''

For clarity, DoD revised paragraph (iii) of these definitions by: (1) removing the additional listing of specific, exemplary purposes included in the proposed rule; (2) removing the reference to ''use'' of computer software; and (3) permitting copies for ''other activities authorized in [the 'restricted rights' definition]'' to leverage existing rights under the clauses. The final rule also resolves an ambiguity in the ''restricted rights'' definition. Although the current rule expressly recognizes the Government's rights to use computer programs for any purpose in paragraph (i) of the definition, the rule only implicitly recognizes the Government's rights to use unmodified computer software for the specific purposes and activities for which the license expressly authorizes the software to be released to non-Government persons. To resolve this ambiguity, DoD revised paragraphs (v) through (vii) to expressly indicate that the Government has the right to use computer software for those same purposes, as well as other rights to computer software already provided to covered Government support contractors.

7. Future Rulemaking Should Address Recommendations Presented by the 2018 Government-Industry Advisory Panel on Technical Data Rights

Comment: Although the respondent acknowledged that this recommendation is outside the scope of implementing 10 U.S.C. 4576, the respondent recommended that DoD's future rulemaking address the specific Government-industry recommendations included in Tension Point Paper 12 of the Section 813 Panel Final Report. In particular, the respondent recommended that DoD should, in a separate rule, consider DFARS revisions that identify factors to be considered in determining whether to adopt a traditional acquisition approach or a software-as-a-service approach.

Response: To the extent that such recommendations fall within the scope of implementation of 10 U.S.C. 4576 and existing DoD policies, DoD considered recommendations in the Section 813 Panel Final Report.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Services, and for Commercial Products, Including Commercially Available Off-the-Shelf Items

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing provisions or clauses or their applicability to contracts valued at or below the simplified acquisition threshold, for commercial services, or for commercial products, including commercially available off-the-shelf items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules Under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule implements section 871 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91). Section 871 established new direction at 10 U.S.C. 2322a, Requirement for consideration of certain matters during acquisition of noncommercial computer software. The statute requires that DoD, as part of any negotiation for such software, consider all noncommercial computer software and related materials necessary to meet the needs of the agency.

DoD received no public comments in response to the initial regulatory flexibility analysis.

The rule may impact small entities that are awarded DoD contracts for noncommercial computer software, to include contracts under the Small Business Innovation Research and Small Business Technology Transfer Programs. Based on data from the Federal Procurement Data System (FPDS) and the Electronic Data Access (EDA) for FY 2019 through FY 2020, DoD estimates that an average of 6,263 unique small entities are awarded an average of 30,146 contract actions for noncommercial software annually.

This rule does not impose any new reporting, recordkeeping, or other compliance requirements.

There are no known alternatives that would accomplish the stated objectives of the applicable statute.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies to this rule. However, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under Office of Management and Budget (OMB) Control Number 0704–0369, entitled DFARS Subparts 227.71, Rights in Technical Data; and Subpart 227.72, Rights in Computer Software and Computer Software Documentation, and related provisions and clauses.

List of Subjects in 48 CFR Parts 227, 237, 239, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 227, 237, 239, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 227, 237, 239, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 227—PATENTS, DATA, AND COPYRIGHTS

■ 2. Revise the heading for subpart 227.71 to read as follows:

Subpart 227.71—Technical Data and Associated Rights

■ 3. Amend section 227.7100—

■ a. In paragraph (a) introductory text by removing ''requirements in'';

■ b. By removing paragraph (a)(5);

■ c. By redesignating paragraphs (a)(6) through (9) as paragraphs (a)(5) through (8);

■ d. By revising the newly redesignated paragraphs (a)(7) and (8).

The revisions read as follows:

227.7100 Scope of subpart.

* * * * *

(a) * * *

(7) Public Law 103–355.

(8) Executive Order 12591 (subsection 1(b)(7)).

* * * * *

■ 4. Amend section 227.7103–2 by revising paragraph (b)(1) to read as follows:

227.7103–2 Acquisition of technical data.

* * * * *

(b)(1) Data managers or other requirements personnel are responsible for identifying the Government's life-cycle needs for technical data. Technical data needs must be established giving consideration to the offeror's economic interests in technical data pertaining to items, components, or processes that have been developed at private expense (including the economic interests of small businesses and nontraditional contractors); the Government's costs to acquire, maintain, store, retrieve, and protect the technical data; reprocurement needs; repair, maintenance, and overhaul philosophies; spare and repair part considerations; and whether procurement of the items, components, or processes can be accomplished on a form, fit, or function basis. When it is anticipated that the Government will obtain unlimited or government purpose rights in technical data that will be required for competitive spare or repair parts procurements, such data should be identified as deliverable technical data items. Reprocurement needs may not be a sufficient reason to acquire detailed manufacturing or process data when items or components can be acquired using performance specifications, form, fit, and function data, or when there are a sufficient number of alternate sources that can reasonably be expected to provide such items on a performance specification or form, fit, or function basis.

* * * * *

■ 5. Revise the heading for subpart 227.72 to read as follows:

Subpart 227.72—Computer Software, Computer Software Documentation, and Associated Rights

■ 6. Revise section 227.7200 to read as follows:

227.7200 Scope of subpart.

(a) This subpart—

(1) Prescribes policies and procedures for the acquisition of computer software and computer software documentation, and the rights to use, modify, reproduce, release, perform, display, or disclose such software or documentation. It implements the following laws and Executive order:

(i) 10 U.S.C. 3013.

(ii) 10 U.S.C. 3208(d).

(iii) 10 U.S.C. 3771–3775.

(iv) 10 U.S.C. 3781–3786.

(v) 10 U.S.C. 4576.

(vi) Executive Order 12591 (subsection 1(b)(7)).

(2) Does not apply to—

(i) Computer software or computer software documentation acquired under General Services Administration (GSA) schedule contracts; or

(ii) Releases of computer software or computer software documentation to litigation support contractors (see subpart 204.74).

(b) See PGI 227.7200(b) for guidance and information in DoD issuances.

■ 7. Amend section 227.7202–1 by adding paragraph (d) to read as follows:

227.7202–1 Policy.

* * * * *

(d) When establishing contract requirements and negotiation objectives to meet agency needs, the Government should consider the factors identified in 227.7203–2(b) and (c) for commercial computer software and computer software documentation, consistent with paragraph (c) of this section.

■ 8. Amend section 227.7203–2—

■ a. By revising the section heading and paragraphs (b) and (c)(4) and (5); and

■ b. By adding paragraph (c)(6).

The revisions and addition read as follows:

227.7203–2 Acquisition of other than commercial computer software and computer software documentation and associated rights.

* * * * *

(b)(1) Data managers or other requirements personnel are responsible for identifying the Government's life-cycle needs for computer software and computer software documentation. See PGI 227.7203–2(b) for further guidance on assessing life-cycle needs. In addition to desired software performance, compatibility, or other technical considerations, identification of life-cycle needs should consider such factors as—

(i) The offeror's economic interests in software that has been developed at private expense (including the economic interests of small businesses and nontraditional contractors);

(ii) The Government's costs to develop, acquire, maintain, store, retrieve, and protect the computer software and computer software documentation;

(iii) Multiple site or shared use requirements;

(iv) Whether the Government's software maintenance philosophy will require the right to modify or have third parties modify the software; and

(v) Any special computer software documentation requirements.

(2)(i) *Procurement planning.* To the maximum extent practicable, when assessing the life-cycle needs, data managers or other requirements personnel will address in the procurement planning and requirements documents (*e.g.,* acquisition plans, purchase requests) the acquisition at appropriate times in the life cycle of all computer software, related recorded information, and associated license rights necessary to—

(A) Reproduce, build, or recompile the software from its source code and required software libraries (*e.g.,* software libraries called, invoked, or linked by the computer software source code that are necessary for the operation of the software);

(B) Conduct required computer software testing and evaluation;

(C) Integrate and deploy computer programs on relevant hardware including developmental, operational, diagnostic, training, or simulation environments; and

(D) Sustain and support the software over its life cycle.

(ii) *Alternatives to delivery of source code and related software design details.* The assessment of life-cycle needs should consider alternatives to the delivery of source code and related software design details for privately developed computer software as necessary to meet the Government's needs, such as—

(A) Technical data and computer software sufficient to implement a modular open system approach or a similar approach (see PGI 227.7203–2(b)(2)(ii)(A) for guidance on alternatives to source code and related software design details);

(B) Access to technical data or computer software, including access agreements for cloud-based or subscription-based software products or services; see PGI 227.7203–2(b)(2)(ii)(B) and (C) for guidance on use of access agreements to contractor source code and related software design details;

(C) Software support and maintenance provided directly from the contractor; or

(D) Other contracting or licensing mechanisms including priced options, specially negotiated licenses, direct licensing between contractors for qualifying second sources, data escrow agreements, deferred delivery solutions, and subscription agreements. See PGI 227.7203–2(b)(2)(ii)(D) for guidance on use of escrow agreements.

(3) When reviewing offers received in response to a solicitation or other request for computer software or computer software documentation, data managers must balance the original assessment of the Government's needs with prices offered.

(c) * * *

(4) Include delivery schedules and acceptance criteria for each deliverable item;

(5) Specifically identify the place of delivery for each deliverable item; and

(6) Specify in the negotiated terms that any required other than commercial computer software, related recorded information, and associated license rights identified in the assessment of life-cycle needs in paragraph (b) of this section shall to the extent appropriate—

(i) Include computer software delivered in a digital format compatible with applicable computer programs on relevant system hardware;

(ii) Not rely on additional internal or external other than commercial or commercial technical data and software, unless such technical data or software is—

(A) Included in the items to be delivered with license rights sufficient to meet the Government's needs; or

(B) Commercially available with license rights sufficient to meet the Government's needs; and

(iii) Include sufficient information, with license rights sufficient to meet the Government's needs, to support maintenance and understanding of interfaces and software version history when the negotiated terms do not allow for the inclusion of the external or additional other than commercial or commercial technical data and software.

PART 237—SERVICE CONTRACTS

■ 9. Add section 237.102–76 to read as follows:

237.102–76 Acquisition of computer software and computer software documentation under services contracts.

(a) See *227.7202* for policy on the acquisition of commercial computer

software and commercial computer software documentation for services contracts that require the development or modification of commercial computer software.

(b) See 227.7203 for policy on the acquisition of other than commercial computer software and other than commercial computer software documentation for services contracts that require the development or modification of other than commercial computer software.

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

■ 10. Amend section 239.101 by adding paragraph (4) to read as follows:

239.101 Policy.

* * * * *

(4) See 227.7203 for policy on the acquisition of other than commercial computer software and other than commercial computer software documentation.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 11. Amend section 252.227–7013 by revising the clause date and paragraph (a)(15) to read as follows:

252.227–7013 Rights in Technical Data—Other than Commercial Products and Commercial Services.

* * * * *

Rights in Technical Data—Other Than Commercial Products or Commercial Services (Mar 2023)

(a) * * *

(15) *Technical data* means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management information, or information incidental to contract administration.

* * * * *

■ 12. Amend section 252.227–7014—

■ a. By revising the clause date and paragraph (a)(15)(iii);

■ b. In paragraph (a)(15)(v) introductory text by removing ''Permit'' and ''use'' and adding ''Use, and permit'' and ''use,'' in their places, respectively;

■ c. In paragraph (a)(15)(v)(A) by removing ''a release'' and adding ''any such release'' in its place;

■ d. In paragraph (a)(15)(v)(B) by removing ''non-disclosure'' and adding ''nondisclosure'' in its place;

■ e. In paragraph (a)(15)(vi) introductory text by removing ''Permit'', ''use'', and ''the repairs'' and adding ''Use, and permit'', ''use,'', and ''the emergency repairs'' in their places, respectively; and

■ f. By revising paragraph (a)(15)(vii) introductory text.

The revisions read as follows:

252.227–7014 Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation.

* * * * *

Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation (Mar 2023)

(a) * * *

(15) * * *

(iii) Make a reasonable number of copies of the computer software required for the purposes of safekeeping (archive), backup, modification, or other activities authorized in paragraphs (a)(15)(i), (ii), and (iv) through (vii) of this clause;

* * * * *

(vii) Use, modify, reproduce, perform, display, or release or disclose computer software to a person authorized to receive restricted rights computer software for management and oversight of a program or effort, and permit covered Government support contractors in the performance of covered Government support contracts that contain the clause at 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, to use, modify, reproduce, perform, display, or release or disclose the computer software to a person authorized to receive restricted rights computer software, provided that—

* * * * *

■ 13. Amend section 252.227–7015 by revising the clause date and paragraph (a)(4) to read as follows:

252.227–7015 Technical Data—Commercial Products and Commercial Services.

* * * * *

Technical Data—Commercial Products and Commercial Services (Mar 2023)

(a) * * *

(4) *Technical data* means recorded information, regardless of the form or method of recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management information, or information incidental to contract administration.

* * * * *

■ 14. Amend section 252.227–7018—

■ a. By revising the clause date and paragraph (a)(18)(iii);

■ b. In paragraph (a)(18)(v) introductory text by removing ''Permit'' and ''use'' and adding ''Use, and permit'' and ''use,'' in their places, respectively;

■ c. In paragraph (a)(18)(v)(A) by removing ''a release'' and adding ''any such release'' in its place;

■ d. In paragraph (a)(18)(v)(B) by removing ''non-disclosure'' and adding ''nondisclosure'' in its place;

■ e. In paragraph (a)(18)(vi) introductory text by removing ''Permit'', ''use'', and ''the repairs'' and adding ''Use, and permit'', ''use,'', and ''the emergency repairs'' in their places, respectively;

■ f. In paragraph (a)(18)(vi)(A) by removing ''non-disclosure'' and adding ''nondisclosure'' in its place; and

■ g. By revising paragraphs (a)(18)(vii) introductory text and (a)(20).

The revisions read as follows:

252.227–7018 Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program.

* * * * *

Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program (Mar 2023)

(a) * * *

(18) * * *

(iii) Make a reasonable number of copies of the computer software required for the purposes of safekeeping (archive), backup, modification, or other activities authorized in paragraphs (a)(18)(i), (ii), and (iv) through (vii) of this clause;

* * * * *

(vii) Use, modify, reproduce, perform, display, or release or disclose computer software to a person authorized to receive restricted rights computer software for management and oversight of a program or effort, and permit covered Government support contractors in the performance of covered Government support contracts that contain the clause at 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, to use, modify, reproduce, perform, display, or release or disclose the computer software to a person authorized to receive restricted rights computer software, provided that—

* * * * *

(20) *Technical data* means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management information, or information incidental to contract administration.

* * * * *

[FR Doc. 2023–05672 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–066–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 228, 242, and 252

[Docket DARS–2021–0024]

RIN 0750–AL13

Defense Federal Acquisition Regulation Supplement: Ground and Flight Risk (DFARS Case 2020–D027)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the requirements related to the assumption of risk associated with aircraft under DoD contracts. Revisions are required due to numerous changes in aircraft contract situations and the emergence of contracts for small, unmanned aircraft.

DATES: Effective March 22, 2023.

FOR FURTHER INFORMATION CONTACT: David E. Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 86 FR 67892 on November 30, 2021, to revise the DFARS requirements related to the assumption of risk associated with aircraft under DoD contracts. Three respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided, as follows:

A. Summary of Significant Changes From the Proposed Rule

The final rule includes, in response to the comments, definitions for ''aircraft,'' ''covered aircraft,'' ''crewmember,'' ''flight,'' and ''workmanship error'' at DFARS 228.370–1 and modified definitions at DFARS clause 252.228–7001, Ground and Flight Risk, for ''covered aircraft,'' ''flight,'' and ''workmanship error'' A change is made to the clause prescription concerning the exception for commercial derivative aircraft to clarify that the exception does not apply to contracts requiring flights by contractor crewmembers. Paragraph (d)(7) is removed from clause 252.228–7001, which provided an exclusion for ''exposure to unreasonable conditions''.

B. Analysis of Public Comments

1. Ambiguity in Terminology

Comment: Several respondents express concern about ambiguity. For example, one respondent states that the new definition of ''Covered aircraft'' in the proposed rule creates confusion regarding applicability of the Government's assumption of risk and items associated with the aircraft. One respondent requests maintaining the existing definition. Another respondent suggests that the terms ''aircraft'' and ''flight'' be specifically defined for this rule.

Response: DoD partially concurs with the comments. DoD added a definition of ''aircraft'' and amended the terms ''flight'' and ''covered aircraft'' in the final rule. This rule changes the concept of aircraft ''in the open'' to ''covered aircraft'' to help clarify that the covered aircraft is under the Government's assumption of risk. ''Covered aircraft'' describes those aircraft for which the Government has assumed the risk of loss.

Comment: Another respondent states that including an alternate meaning of the word ''commercial'' in proposed definitions conflicts with existing definitions in regulations and private-insurance industry terminology, and the terms appear to originate from different titles of the U.S. Code. Similarly, the respondent states that the proposed rule ''incorporates terms from Title 49 of the U.S. Code, such as 'commercial,' 'noncommercial purposes,' and 'public aircraft' that are inconsistent and cannot be fully harmonized with the Title 41 terminology.''

Response: DoD does not concur with the comment. The final rule incorporates terms that are defined in the U.S. Code and that are necessary for this rule.

Comment: A respondent states clause 252.228–7001, as amended by this rule, includes a definition of ''crewmember'' that is too narrow.

Response: DoD does not concur with the comment. The final rule contains the flexibility to modify the definition via the contract Schedule. The definition provided in this final rule simply removes a list of positions included in the definition of ''flight crew member'' that was never all inclusive and refers to those positions identified in the flight manual.

2. Ambiguity in Clause Prescription

Comment: Several respondents comment on the prescription for clause 252.228–7001. One respondent states that the prescription appears to unnecessarily narrow the scope of the exception at 228.371(b)(1)(iv), relating to work performed by a certified Federal Aviation Administration (FAA) repair station.

Response: DoD partially concurs with the comment. The phrase ''maintenance (ground operations only) for'' was added at DFARS 228.371(b)(1)(iv) in the proposed rule to convey that flight operations by contractor personnel are not authorized, not to limit the contracts to maintenance only. The language in the final rule has been updated to clarify that it does not apply to contracts requiring flights by contractor crewmembers.

Comment: Another respondent states that the prescription at 228.371(b)(1) for clause 252.228–7001 creates ambiguity because ''the acquisition, development and production of aircraft would apply only to the production of new aircraft, while the modification, maintenance, repair, flight, and overhaul would apply to existing Government-owned aircraft.''

Response: DoD does not concur with the comment. This rule applies both to production and to existing Government-owned aircraft.

Comment: Another respondent states that, in the proposed rule, the prescription at 228.371(c) appears ambiguous regarding proper selection of DFARS 252.228–70XX instead of DFARS 252.228–7001.

Response: DoD does not concur with the comment. The new clause is purposefully limited to certain, rather narrow contractual applications, circumstances, or conditions specifically listed. The list is inclusive and applies specifically to the actions described depending on whether the aircraft is new production aircraft or existing aircraft.

3. Unnecessary Language

Comment: A respondent states that the proposed rule includes language at DFARS 228.370–2(d), describing the purpose of clause 252.228–7001, that is ''unwarranted'' and unnecessary. The respondent suggests deleting this language.

Response: DoD does not concur with the comment. DoD will not delete this language but has revised the language in the final rule to describe the purpose of clause 252.228–7001.

4. Major Rule

Comment: Two respondents state that the rule might meet the definition of a ''major'' rule, as defined at 5 U.S.C. 804.

Response: This rule is not a major rule as defined in 5 U.S.C. 804, because it lacks elements of a major rule.

5. Preaward Survey of Aircraft

Comment: A respondent states that the proposed rule includes an ''ill-defined and impractical'' requirement at DFARS 228.370–2(a) for a preaward survey of potential subcontractors performing ''any aircraft work.'' The respondent suggests deleting the entire paragraph.

Response: DoD does not concur with the comment. This language reflects a long-standing policy that is necessary to assist both the Government and the prime contractor. This rule does not change this long-standing policy, but it does add clarifying language. FAR part 42 contemplates preaward surveys of a contractor's or subcontractor's facility at the discretion of the contracting officer. Finally, the preaward survey process only applies to subcontractors working on the aircraft itself, not to suppliers of aircraft parts.

6. Inconsistent With Defense Contract Management Agency (DCMA) Guidance

Comment: A respondent suggests deleting from the rule DFARS 228.370–2(e)(1), stating that the contracting officer shall make a liability determination after damage to Government aircraft has already occurred, because this is both possibly unfair to contractors and inconsistent with DCMA Instruction 8210–1.

Response: DoD does not concur with the comment. The final rule reflects that such determinations will be made under DFARS 228.370–2(g), not the combined instruction. This determination is necessarily made after an incident but also takes into account the exclusions listed at 252.228–7001(d).

7. Compliance With the Combined Regulation/Instruction

Comment: A respondent states that in accordance with clause 252.228–7001(b), compliance with the combined regulation/instruction is required from the time of contract award throughout the period of performance of the contract, regardless of the Government's assumption of risk under the contract and is contradictory to requirements for creation and approval of the procedures, which require assignment of a Government flight representative (GFR) and subsequent approval.

Response: DoD does not concur with the comment. The applicability of the Combined Instruction accrues at time of award of the contract, and the contractor is bound by contract terms, which include the Combined Instruction throughout contract performance. Coverage under the Combined Instruction is not triggered by assignment of a GFR or the Government's assumption of the risk of loss. Any claim for Government-caused delay would be addressed separately.

8. Treatment of Government-Furnished Property

Comment: A respondent states that the ''carve out'' at clause 252.228–7001(d)(3) of Government-furnished property from coverage under the clause creates an ''undue burden'' on contractors.

Response: DoD does not concur with the comment. If the contract anticipates transportation by common carrier, and the aircraft leaves the contractor's facility, then the risk of loss may be determined under other applicable terms and conditions of the contract.

9. Allowability of Costs for Insurance Costs and Premiums

Comment: A respondent states that while FAR part 31 addresses cost principles, clause 252.228–7001(d)(4) nonetheless addresses allowability of costs for insurance costs and premiums.

Response: DoD does not concur with the comment. Clause 252.228–7001(d)(4) relates to insurance generally, and it is an exclusion to coverage. Clause 252.228–7001(f) specifically makes the cost of insurance premiums for the aircraft expressly unallowable.

10. Exclusion for Exposure to Unreasonable Conditions

Comment: A respondent states that language at clause 252.228–7001(d)(7), which provides an exclusion for ''exposure to unreasonable conditions,'' is unjustified.

Response: DoD concurs with the comment. DoD removed the exclusion at 252.228–7001(d)(7) from the final rule. However, DFARS 228.370–2(h) describes factors for the contracting officer to consider in determining whether the contractor has failed to comply with the Combined Instruction, including exposure of covered aircraft to unreasonable conditions, which may result in revocation of the Government's assumption of the risk of loss.

11. Use the Fifteen-Day ''Cure Period''

Comment: A respondent states that the ''cure period'' reflected in clause 252.228–7001(e)(1) should specify a particular timeframe, and it suggests retaining the fifteen-day ''cure period.''

Response: DoD partially concurs with the comment. The rule was revised to include the term ''preliminary notice of revocation,'' which allows the contracting officer flexibility in specifying an appropriate time period. As a result, the contractor has the opportunity to respond to the preliminary notice by proposing a timeline for resolution or suggesting a solution. If the contracting officer finds that the contractor has failed to address the conditions, then the contracting officer may issue a formal notice of revocation. This is intended to afford the contractor sufficient time to take corrective action.

12. Request for Equitable Adjustment

Comment: A respondent objects to language in the proposed rule stating that the contractor may submit a request for equitable adjustment to the contracting officer, noting such language departs from existing language that a request for equitable adjustment shall be made in connection with clause 252.228–7001.

Response: DoD concurs with the comment. DoD revised the final rule accordingly.

13. Increase to Contractor's Share of Loss

Comment: A respondent states that the proposed doubling of the contractor's share of loss from $100,000 to $200,000, reflected at clause 252.228–7001(h), lacks a meaningful basis and represents an excessive transfer of risk to the contractor.

Response: DoD does not concur with the comment. The cost-share increase is not intended to track inflation; rather, this is a policy decision based on risk of loss and cost sharing and is determined by the Government as a fair and reasonable cost-share arrangement.

14. Flowdown Requirement

Comment: A respondent states that the requirement at clause 252.228–7001(k) to flow down this clause to commercial subcontractors is both inconsistent with acquisition policy and practically unworkable.

Response: DoD does not concur with the comment. The intent of the rule is to apply the clause at 252.228–7001 to all contract levels. However, there are exceptions provided in paragraph (k) of the clause. These exceptions did not exist prior to this rule. Therefore, this rule actually narrows the flowdown requirement.

C. Other Changes

This rule incudes minor changes not associated with public comments. First, this rule adds a reference to PGI 228.370–2(e) at 228.370–2. Second, this rule adds the term ''incorrectly

performed skill-based'' to the definition of workmanship error and reorganizes the definition of ''covered aircraft'' for ease of reading at 228.370–1 and 252.228–7001(a). In addition, guidance to contracting officers, concerning contracting officer determinations of liability and exclusions from the Government's assumption of risk located in the DFARS clause 252.228–7001 clause, is extrapolated from the clause and also included in the text at 228.370–2(g) along with other similar procedural subject matter. The text at 228.370–2(h), Notice of revocation of the Government's assumption of risk, and DFARS clause 252.228–7001, paragraph (e), address the issuance of a preliminary notice of revocation. Paragraph (a) is added to 228.370–2 to provide a cross reference to procedures on assigning a Government flight representative. At DFARS 228.371, the clause prescription in paragraph (b)(2) included several factors for contracting officers to consider when using the clause at 252.228–7001 under certain circumstances. These factors have been relocated in new section 228.370–3, because they were not part of the actual clause prescription. Also at DFARS 228.371, the prescription for 252.228–7007, Public Aircraft and State Aircraft Operations—Liability, is moved to the end of the section.

In the clause at 252.228–7001, the definitions in paragraph (a) are arranged in alphabetical order. References to ''commercial items'' are replaced with ''commercial products and commercial services'' or ''commercial products or commercial services'' as appropriate for the context.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items, and for Commercial Services

This rule creates a new clause: DFARS 252.228–7007, Public Aircraft and State Aircraft Operations—Liability. The clause DFARS 252.228–7007 is prescribed for use in solicitations and contracts that do not include the clause at 252.228–7001 but involve public aircraft operations or state aircraft operations. This rule also revises the clause at DFARS 252.228–7001, Ground and Flight Risk. DoD intends to apply both clauses to contracts at or below the simplified acquisition threshold. Application to contracts at or below the SAT will prevent contractors who have contracts valued below $200,000 from being liable for the entirety of the loss or damages. This burden on these smaller purchases is not commensurate with those of the larger dollar value contracts and, therefore, discourages the contractors with lower value contracts from working with the Government.

DoD does not intend to apply either clause to prime contracts for commercial services or commercial products, including commercially available off-the-shelf items, per DFARS 228.371. However, DFARS clause 252.228–7001 will apply to subcontracts for commercial products and commercial services, with an exception for work subcontracted to a Federal Aviation Administration (FAA) part 145 repair station performing work pursuant to their FAA license. DFARS clause 252.228–7001 provides for self-insurance to avoid reliance on commercial insurance for military aircraft. Application of DFARS 252.228–7001 to subcontracts, including those for commercial products and commercial services, provides a mechanism to require subcontractor compliance with the combined regulation/instruction, which provide the terms and conditions for the Government's self-insurance.

IV. Expected Impact of the Rule

This rule is not expected to have a significant impact on the Government or industry. The rule updates and expands procedures and guidelines on use of DFARS clause 252.228–7001. The change in the calculation of the contractor's share of loss is viewed as a positive incentive in reducing the magnitude of the risk of loss for contractors. Although the dollar amount for contractor liability is increased from $100,000 to $200,000 in this rule, the addition of reasonable alternatives that recognize the low cost of aircraft, such as drones, will mean that a contractor's share of loss may be much lower. The rule also provides a new clause 252.228–7007, Public Aircraft and State Aircraft Operations—Liability, to use when conditions for use of 252.228–7001 are not met, but the acquisition involves public aircraft operations or state aircraft operations. It is expected that contract clause 252.228–7007 will be used very infrequently, fewer than 10 times annually.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VII. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*. The FRFA is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update the ground and flight risk policy and associated clause at DFARS 252.228–7001. The language is outdated and needs revision to clarify applicability to numerous changes in aircraft contract situations and emergence of contracts for small, unmanned aircraft.

DoD received no comments in response to the initial regulatory flexibility analysis.

The rule will apply to all small entities that will be awarded contracts for the acquisition, development, production, modification, maintenance, repair, flight, or overhaul of aircraft. According to data from the Federal Procurement Data System for fiscal years 2017 through 2019, DoD made approximately 6,287 awards per year on average for these types of acquisitions for a total of 18,861 awards. Approximately 7,757 of these awards were made to 2,185 unique small businesses.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities.

There are no known, significant, alternative approaches that would accomplish the objectives of the rule.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 228, 242, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 228, 242, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 228, 242, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 228—BONDS AND INSURANCE

228.370 [Redesignated as 228.371]

■ 2. Redesignate section 228.370 as section 228.371.

■ 3. Add new section 228.370 and sections 228.370–1, 228.370–2, and 228.370–3 to read as follows:

228.370 Ground and flight risk.

228.370–1 Definitions.

As used in this section—

Aircraft means, unless otherwise provided in the contract Schedule, any item, other than a rocket or missile, intended for flight (*e.g.,* fixed-winged aircraft, blended wing/lifting bodies, helicopters, vertical take-off or landing aircraft, lighter-than-air airships, and unmanned aerial vehicles), including emerging technologies that would commonly be considered aircraft. New production articles become aircraft at a stage of manufacture or production when a wing, portion of a wing, or engine is attached to a fuselage. Blended wing/lifting bodies become aircraft at a stage of manufacture or production when the center portion and a lifting surface become attached.

Civil aircraft means an aircraft other than a public aircraft or state aircraft.

Contractor managerial personnel means the contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All, or substantially all, of the contractor's business;

(2) All, or substantially all, of the contractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

Covered aircraft means an aircraft owned by or to be delivered to the Government and, when determined by the contracting officer and specifically identified as such in the contract Schedule, may include contractor-furnished aircraft that are not intended for induction into the DoD inventory, including—

(1) Aircraft furnished by the Government to the contractor under a contract while in the contractor's possession, care, custody, or control regardless of their location or state of disassembly or reassembly;

(2) Items removed from a Government-furnished aircraft that are—

(i) Intended for reinstallation on that particular aircraft, which retain their status as covered aircraft while awaiting installation; and

(ii) Not intended for reinstallation on that particular aircraft, which lose their status as covered aircraft once removal is complete;

(3) New production aircraft when wholly outside of buildings on the contractor's premises or other places described in the contract Schedule (*e.g.,* hush houses, run stations, and paint facilities); and

(4) Commercial aircraft, to include commercially available off-the-shelf aircraft, become covered aircraft when the commercial aircraft arrives at the contractor's place of performance for modification under the terms of the contract.

Crewmember means, unless otherwise provided in the contract Schedule, personnel required in the flight manual, assigned for the purpose of conducting any flight on behalf of the contractor. It also includes any operator of an unmanned aerial vehicle.

Flight means any flight approved in writing by the Government flight representative, to include taxi test made in the performance of the contract, or flight for the purpose of safeguarding the aircraft. All aircraft off the contractor's premises shall be considered to be in flight when on the ground or water for reasonable periods of time following emergency landings, landings made in performance of the contract, or landings approved in writing by the contracting officer.

Public aircraft means an aircraft that meets the definition in 49 U.S.C. 40102(a)(41) and the qualifications in 49 U.S.C. 40125. Specifically, a public aircraft means any of the following:

(1) An aircraft used only for the Government, except as provided in paragraphs (5) and (7) of this definition.

(2) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in paragraph (7) of this definition.

(3) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in paragraph (7) of this definition.

(4) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in paragraph (7) of this definition.

(5) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by 49 U.S.C. 40125(c). In the preceding sentence, the term ''other commercial air service'' means an aircraft operation that—

(i) Is within the United States territorial airspace;

(ii) The Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public; and

(iii) Must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

(6) An unmanned aircraft that is owned and operated by, or exclusively leased for at least 90 continuous days by, an Indian Tribal government, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), except as provided in paragraph (7) of this definition.

(7) As described in 49 U.S.C. 40125(b), an aircraft described in paragraph (1), (2), (3), or (4) of this definition does not qualify as a public aircraft in situations where the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

Public aircraft operation means operation of an aircraft that meets the legal definition of public aircraft established in 49 U.S.C. 40102(a)(41) and the legal qualifications for public aircraft status outlined in 49 U.S.C. 40125.

State aircraft means an aircraft operated by the Government for sovereign, noncommercial purposes such as military, customs, and police services. Military aircraft are afforded status as state aircraft. In very rare circumstances, DoD-contracted aircraft may be designated, in writing, by a

responsible Government official pursuant to DoD Directive 4500.54E, DoD Foreign Clearance Program, to be operated in state aircraft status, and States may choose to treat them as deemed state aircraft when they are operating under a Government contract.

Workmanship error means damage to the aircraft that is the result of an incorrectly performed skill-based task, operation, or action that was originally planned or intended.

228.370–2 General.

(a) *Assignment of a Government flight representative.* See PGI 228.370–2(a) for procedures on assigning a Government flight representative (GFR) when using the clauses at 252.228–7001 and 252.228–7007.

(b) *Preaward survey.* Before awarding any contract using the clause at 252.228–7001, Ground and Flight Risk, the contracting officer should obtain a preaward survey of the offeror's proposed aircraft flight and ground operations facility. If the offeror proposed subcontracting any aircraft work, the preaward survey should include a review of the subcontractor's facility. For acquisitions falling under the exceptions at 228.371(b)(1)(iii), (iv), and (vi), the contracting officer shall review the documentation the offeror submitted with the proposal in response to the DD Form 1423, Contract Data Requirements List, to ensure the offeror's commercial insurance provides the appropriate coverage required by the clause at 252.228–7001.

(c) *Foreign military sales.* The exception for foreign military sales (FMS) contracts at 228.371(b)(1)(iii) only applies to FMS cases where the FMS customer has explicitly refused assumption of risk of loss. If the FMS customer has accepted the standard Letter of Offer and Acceptance Standard Terms and Conditions, as described in DoD 5105.38–M, Security Assistance Management Manual, they have assumed risk of loss.

(d) *Commercial derivative aircraft.* The exception at 228.371(b)(1)(iv) for commercial derivative aircraft only applies if the contractor is a licensed and certified Federal Aviation Administration (FAA) repair station for the specific model of aircraft under contract, when work is being performed pursuant to the FAA license under 14 CFR part 145. The FAA's repair station search tool is available at *https://av-info.faa.gov/repairstation.asp.* All aircraft flying public aircraft operations operate under airworthiness certificates maintained by the military services. The FAA airworthiness certificate in the exception in this paragraph (d) underlies the military service certificate.

(e) *Insurance.* The clause at 252.228–7001, Ground and Flight Risk, is intended to reduce acquisition costs by eliminating the costs of commercial insurance premiums. This clause also is intended to encourage the contractor to perform safe and effective operations through inclusion of a contractor's share of loss (*i.e.,* a deductible). Additionally, the clause requires compliance with the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations'' (Air Force Instruction 10–220, Army Regulation 95–20, Naval Air Systems Command (NAVAIR) Instruction 3710.1 (Series), Coast Guard Instruction M13020.3 (Series), and Defense Contract Management Agency Instruction 8210–1 (Series)), which provides procedures to mitigate the risk of loss to the Government. For this reason, paragraph (e)(4)(ii) of the clause at 252.228–7001 specifies that insurance premium costs are unallowable. In addition, paragraph (d)(4) of the clause provides that the Government's assumption of risk does not apply where the loss or damage is covered by available insurance.

(f) *Damage to Government aircraft.* (1) Whenever damage to Government aircraft is reported, each incident should be evaluated on its own merits. When the cost of repair exceeds the contractor's share of loss provisions, the contracting officer shall make a liability determination in accordance with paragraph (g) of this section.

(2) Contracting officers should consult with the requiring activity and the assigned contract administration office on replacement, repair, or beyond economic repair decisions.

(3) See PGI 228.370–2(f) for an example of accident or mishap damage versus workmanship-error damage.

(g) *Contracting officer determination of liability.* (1) When making a liability determination, the contracting officer should seek input from the GFR and legal counsel, as needed.

(2) The Government's assumption of risk shall not extend to damage, loss, or destruction of covered aircraft that—

(i) Is the result of willful misconduct or lack of good faith on the part of the contractor's managerial personnel, including the contractor's oversight of subcontractors;

(ii) Is sustained during flight if either the flight or the crewmembers have not been approved in advance and in writing by the GFR, who has been authorized in accordance with the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations'';

(iii) Occurs in the course of transportation by rail, or by conveyance on public streets, highways, or waterways, unless the transportation is limited to the vicinity of the contractor's premises, and incidental to work performed under the contract as described in the Schedule;

(iv) Is covered by insurance;

(v) Occurs after the contracting officer has, in writing, revoked the Government's assumption of risk; or

(vi) Is sustained due to workmanship errors.

(h) *Notice of revocation of the Government's assumption of risk.* The liability provisions of the clause at FAR 52.245–1, Government Property, do not apply to the aircraft impacted by a notice of revocation.

(1) *Preliminary notice of revocation.* (i) When finding that contractor managerial personnel have failed to comply with the combined regulation/instruction, as required by paragraph (b) of the clause at 252.228–7001, including finding the covered aircraft are exposed to unreasonable conditions, the contracting officer shall issue a preliminary notice of revocation of the Government's assumption of risk to the contractor and shall require the contractor to comply with contract requirements. Factors for the contracting officer to consider in determining exposure to unreasonable conditions include, but are not limited to, the following:

(A) Lack of adequate hangar fire suppression or firefighting vehicles;

(B) Failure to provide adequate procedures to the GFR; or

(C) Systemic failure to comply with approved procedures.

(ii) The preliminary notice of revocation will state the timeframe for the contractor to correct the noncompliance or conditions.

(2) *Notice of revocation.* If the contractor fails to correct the cited noncompliance or conditions within the specified timeframe, the contracting officer shall issue to the contractor a notice of revocation of the Government's assumption of risk for any covered aircraft.

(i) Thereafter the contractor assumes the entire risk for damage, loss, or destruction of the previously covered aircraft.

(ii) Any costs incurred by the contractor, including the costs of the contractor's self-insurance, insurance premiums paid to insure the contractor's assumption of risk, deductibles associated with such purchased insurance, etc., to mitigate its risk are unallowable costs.

(iii) The notice of revocation does not relieve the contractor of its obligation to comply with all other provisions of the clause at 252.228–7001, including the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations.''

(iv) Within 3 days of receipt of the contractor's notice of correction, the contracting officer shall notify the contractor whether the Government will resume risk of loss. The contracting officer shall determine that the noncompliance or cited conditions have been corrected prior to resuming assumption of risk.

(v) Any disputes regarding the contracting officer's notice of revocation shall be subject to FAR clause 52.233–1, Disputes.

(i) *Procedures in the event of damage, loss, or destruction of covered aircraft.* (1) In the event of damage, loss, or destruction of covered aircraft, except in cases covered by paragraph (j)(2) of this section, the contracting officer shall evaluate the contractor's statement of—

(i) The damaged, lost, or destroyed aircraft;

(ii) The time and origin of the damage, loss, or destruction;

(iii) All known interests in commingled property of which aircraft are a part; and

(iv) The insurance, if any, covering the interest in commingled property.

(2) If a new production aircraft is damaged, lost, or destroyed before it has become a covered aircraft, the Government bears no responsibility for risk of loss.

(3) If a new production aircraft is damaged, lost, or destroyed after it has become a covered aircraft, the contracting officer shall provide written direction to the contractor to take action in accordance with the contracting officer's written direction that the aircraft shall be—

(i) Replaced;

(ii) Repaired to the condition immediately prior to the damage; or

(iii) Considered beyond economic repair. The contracting officer shall decide whether further actions are required under the contract.

(4) If a covered aircraft that has been furnished by the Government to the contractor is damaged, lost, or destroyed while covered, the contracting officer shall provide written direction to the contractor that the aircraft shall be—

(i) Repaired; or

(ii) Considered beyond economic repair. The contracting officer shall decide further actions required under the contract.

(5) The contracting officer shall make an equitable adjustment for expenditures made in performing the obligations under paragraph (h) of the clause at 252.228–7001.

(j) *Contracting officer determination of the contractor's share of loss.* (1) The contractor's share of loss or damage to covered aircraft, except for loss or damage caused by negligence of Government personnel, is the least of—

(i) $200,000;

(ii) 20 percent of the price or estimated acquisition cost of affected aircraft; or

(iii) 20 percent of the price or estimated cost of the contract, task order, or delivery order.

(2) If the Government requires covered aircraft to be replaced or repaired by the contractor, any resulting equitable adjustment shall not include reimbursement of the contractor's share of loss.

(3) In the event the Government does not decide to replace or repair the covered aircraft, the clause at 252.228–7001 requires the contractor to credit the contract price or pay the Government, as directed by the contracting officer, the least of—

(i) $200,000;

(ii) 20 percent of the price or estimated acquisition cost of affected aircraft; or

(iii) 20 percent of the price or estimated cost of the contract, task order, or delivery order.

(4) The costs incurred by the contractor for its share of the loss and for insuring against that loss are unallowable costs, including but not limited to—

(i) The contractor's share of loss under the Government's self-insurance;

(ii) The costs of the contractor's self-insurance;

(iii) The deductible for any contractor-purchased insurance;

(iv) Insurance premiums paid for contractor-purchased insurance; and

(v) Costs associated with determining, litigating, and defending against the contractor's liability.

(k) *Reimbursement from a third party.* If the contracting officer finds or has reason to believe that the contractor has been reimbursed or otherwise compensated by a third party for damage, loss, or destruction of covered aircraft and has also been compensated by the Government, then the contracting officer shall demand an equitable reimbursement. If the contracting officer requests that the contractor provide reasonable assistance in obtaining recovery, such effort shall be an allowable expense of the contractor.

228.370–3 Aircraft not owned by or to be delivered to the Government.

(a) When a contract involves aircraft not owned by or to be delivered to the Government, the contracting officer may use the clause at 252.228–7001 only if the contracting officer determines that it is in the best interest of the Government.

(b) Potential factors for the contracting officer to consider when deciding which course of action is in the best interest of the Government include, but are not limited to, whether—

(1) The cost of hull insurance exceeds the replacement cost of the aircraft;

(2) Insurance is not available (*e.g.,* high-risk experimental flights and operations of aircraft in a war zone); or

(3) Ground or flight activities that involve contractor-owned and contractor-operated aircraft may pose risk to Government aircraft (*e.g.,* due to close proximity in flight).

■ 4. Amend newly redesignated section 228.371 by revising paragraph (b) and adding paragraph (f) to read as follows:

228.371 Additional clauses.

* * * * *

(b) Use the clause at 252.228–7001, Ground and Flight Risk, in solicitations and contracts—

(1) For the acquisition, development, production, modification, maintenance, repair, flight, or overhaul of aircraft owned by or to be delivered to the Government, except those solicitations and contracts—

(i) That are strictly for activities incidental to the normal operations of the aircraft (*e.g.,* refueling operations, minor non-structural actions not requiring towing such as replacing aircraft tires due to wear and tear);

(ii) That are awarded for purchase under FAR part 12 procedures;

(iii) For which a non-DoD customer (including an FMS customer per 225.7305) has decided to allow the use of commercial insurance or other self-insurance;

(iv) For commercial derivative aircraft with an FAA certificate of airworthiness maintained to FAA standards. Performance under the exception in this paragraph (b)(1)(iv) must be at a licensed and certified FAA repair station rated for the type of aircraft and work to be maintained. This exception does not apply to contracts requiring flights with contractor crewmembers;

(v) Under which the aircraft are to be dismantled and removed from the inventory; or

(vi) Under which the aircraft are classified as Group 1 or 2 unmanned aircraft systems per DoD Instruction (DoDI) 6055.07, Mishap Notification, Investigation, Reporting, and Record

Keeping, and the purchase price of the air vehicle, including installed Government-furnished equipment, is below the cost threshold for a Class C mishap per DoDI 6055.07; or

(2) Involving aircraft not owned by or to be delivered to the Government, only if the contracting officer decides that it is in the best interest of the Government. See 228.371–3.

* * * * *

(f) Use the clause at 252.228–7007, Public Aircraft and State Aircraft Operations—Liability, in solicitations and contracts that do not include the clause at 252.228–7001 but involve public aircraft operations or state aircraft operations.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 5. Amend section 242.302 by adding paragraph (a)(56) to read as follows:

242.302 Contract administration functions.

(a) * * *

(56) Within DoD, maintaining surveillance of aircraft flight and ground operations is accomplished by incorporating into the contract, task order, or delivery order the requirements of the applicable version of the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations'' (Air Force Instruction 10–220, Army Regulation 95–20, Naval Air Systems Command (NAVAIR) Instruction 3710.1 (Series), Coast Guard Instruction M13020.3 (Series), and Defense Contract Management Agency Instruction 8210–1 (Series)). See PGI 242.302(a)(56).

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 252.228–7000—

■ a. By revising the section heading; and

■ b. In the introductory text by removing ''228.370(a)'' and adding ''228.371(a)'' in its place.

The revision reads as follows:

252.228–7000 Reimbursement for War-Hazard Losses.

* * * * *

■ 7. Revise section 252.228–7001 to read as follows:

252.228–7001 Ground and Flight Risk.

As prescribed in 228.371(b), use the following clause:

Ground and Flight Risk (Mar 2023)

(a) *Definitions.* As used in this clause—

Aircraft means, unless otherwise provided in the contract Schedule, any item, other than a rocket or missile, intended for flight (*e.g.,* fixed-winged aircraft, blended wing/lifting bodies, helicopters, vertical take-off or landing aircraft, lighter-than-air airships, and unmanned aerial vehicles), including emerging technologies that would commonly be considered aircraft. New production articles become aircraft at a stage of manufacture or production when a wing, portion of a wing, or engine is attached to a fuselage. Blended wing/lifting bodies become aircraft at a stage of manufacture or production when the center portion and a lifting surface become attached.

Contractor's managerial personnel means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All, or substantially all, of the Contractor's business;

(2) All, or substantially all, of the Contractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

Contractor's premises means those premises, including subcontractors' premises, designated in the Schedule or in writing by the Contracting Officer, and any other place the aircraft is moved for safeguarding.

Covered aircraft means an aircraft owned by or to be delivered to the Government and, when determined by the contracting officer and specifically identified as such in the contract Schedule, may include contractor-furnished aircraft that are not intended for induction into the DoD inventory, including—

(1) Aircraft furnished by the Government to the Contractor under this contract while in the Contractor's possession, care, custody, or control regardless of their location or state of disassembly or reassembly;

(2) Items removed from a Government furnished aircraft that are—

(i) Intended for reinstallation on that particular aircraft, which retain their status as covered aircraft while awaiting installation; and

(ii) Not intended for reinstallation on that particular aircraft, which lose their status as covered aircraft once removal is complete;

(3) New production aircraft when wholly outside of buildings on the Contractor's premises or other places described in the Schedule (*e.g.,* hush houses, run stations, and paint facilities); and

(4) Commercial aircraft, to include commercially available off-the-shelf aircraft, become covered aircraft when the commercial aircraft arrives at the Contractor's place of performance for modification under the terms of the contract.

Crewmember means, unless otherwise provided in the Schedule, personnel required in the flight manual, assigned for the purpose of conducting any flight on behalf of the Contractor. It also includes any operator of an unmanned aerial vehicle.

Flight means any flight approved in writing by the Government flight representative, to include taxi test made in the performance of this contract, or flight for the purpose of safeguarding the aircraft. All aircraft off the Contractor's premises shall be considered to be in flight when on the ground or water for reasonable periods of time following emergency landings, landings made in performance of the contract, or landings approved in writing by the contracting officer.

Workmanship error means damage to the aircraft that is the result of an incorrectly performed skill-based task, operation, or action that was originally planned or intended.

(b) *Combined regulation/instruction.* The Contractor shall be bound by the operating procedures contained in the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations'' (Air Force Instruction 10–220, Army Regulation 95–20, NAVAIR Instruction 3710.1 (Series), Coast Guard Instruction M13020.3 (Series), and Defense Contract Management Agency Instruction 8210–1 (Series) in effect on the date of contract award. Compliance with the combined regulation/instruction is required from the time of contract award throughout the period of performance of the contract, regardless of the Government's assumption of risk under the contract.

(c) *Government as self-insurer.* The Government self-insures and assumes the risk of damage to, or loss or destruction of, covered aircraft subject to the following conditions:

(1) The Contractor's liability to the Government for damage, loss, or destruction of covered aircraft is limited to the Contractor's share of loss as defined at paragraph (h) of this clause, except when one of the exclusions at paragraph (d) applies.

(2) The liability provisions of this clause take precedence over the liability provisions of Federal Acquisition Regulation (FAR) clause 52.245–1, Government Property, with respect to covered aircraft.

(3) The Contractor is not liable for loss, damage, or destruction of covered aircraft as the result of normal wear and tear, or intentional damage or destruction as required in the Schedule.

(4) Conditions for Government assumption of risk in flight are as follows:

(i) The Contractor's crewmembers are approved in writing by the Government flight representative (GFR).

(ii) The flight is approved in writing by the GFR.

(d) *Exclusions from the Government's assumption of risk.* The Government's assumption of risk under this clause shall not extend to damage, loss, or destruction of covered aircraft which—

(1) Is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, including the Contractor's oversight of subcontractors;

(2) Is sustained during flight if either the flight or the crewmembers have not been approved in advance and in writing by the GFR, who has been authorized in accordance with the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations'';

(3) Occurs in the course of transportation by rail, or by conveyance on public streets,

highways, or waterways, unless the transportation is limited to the vicinity of the Contractor's premises, and incidental to work performed under the contract as described in the Schedule;

(4) Is covered by insurance;

(5) Occurs after the Contracting Officer has, in writing, revoked the Government's assumption of risk in accordance with paragraph (e)(3) of this clause; or

(6) Is sustained due to workmanship errors.

(e) *Revoking the Government's assumption of risk.*

(1) The Contracting Officer, when finding that the Contractor's managerial personnel have failed to comply with paragraph (b) of this clause, will issue a preliminary notice of revocation requiring the Contractor to comply with contract requirements within a timeframe specified by the Contracting Officer. In determining exposure to unreasonable conditions, the Contracting Officer will consider factors including, but not limited to, the following: lack of adequate hangar fire suppression or firefighting vehicles, failure to provide adequate procedures to the GFR, or systemic failure to comply with approved procedures.

(2) Upon receipt of the preliminary notice of revocation, the Contractor shall promptly correct the noncompliance or cited conditions, regardless of whether there is agreement that the conditions are unreasonable.

(3) If the Contracting Officer finds that the Contractor failed to correct the cited noncompliance or conditions within the specified timeframe, the Contracting Officer will issue a notice of revocation of the Government's assumption of risk for any covered aircraft.

(4) If the Contracting Officer issues a notice of revocation pursuant to the terms of this clause—

(i) The Contractor shall thereafter assume the entire risk for damage, loss, or destruction of the previously covered aircraft;

(ii) Any costs incurred by the Contractor (including the costs of the Contractor's self-insurance, insurance premiums paid to insure the Contractor's assumption of risk, deductibles associated with such purchased insurance, etc.) to mitigate its risk are unallowable costs; and

(iii) The liability provisions of the clause at FAR 52.245–1, Government Property, are not applicable to the aircraft impacted by the notice of revocation.

(5) The Contractor shall promptly notify the Contracting Officer when the noncompliance or cited conditions have been corrected. Within 3 days of receipt of the Contractor's notice of correction, the Contracting Officer will notify the Contractor whether the Government will resume risk of loss. The Contracting Officer will determine that the noncompliance or cited conditions have been corrected prior to resuming assumption of risk.

(6) The notice of revocation does not relieve the Contractor of its obligation to comply with all other provisions of this clause, including the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations.''

(7) Any disputes regarding the Contracting Officer's notice of revocation shall be subject to FAR clause 52.233–1, Disputes.

(f) *Contractor's exclusion of insurance costs.* The Contractor warrants that the contract price does not and will not include, except as may be authorized in this clause, any charge or contingency reserve for insurance (including the Contractor's share of loss) covering damage, loss, or destruction of covered aircraft when the risk has been assumed by the Government, even if the assumption may be terminated for covered aircraft.

(g) *Procedures in the event of damage, loss, or destruction.*

(1) In the event of damage, loss, or destruction of covered aircraft, the Contractor shall take all reasonable steps to protect the aircraft from further damage, to separate damaged and undamaged aircraft, and to put all aircraft in the best possible order. Except in cases covered by paragraph (h)(2) of this clause, the Contractor shall furnish to the Contracting Officer a statement of—

(i) The damaged, lost, or destroyed aircraft;

(ii) The time and origin of the damage, loss, or destruction;

(iii) All known interests in commingled property of which aircraft are a part; and

(iv) The insurance, if any, covering the interest in commingled property.

(2) If a new production aircraft is damaged, lost, or destroyed before it has become a covered aircraft, the Government bears no responsibility for risk of loss.

(3) If a new production aircraft is damaged, lost, or destroyed after it has become a covered aircraft, the Contractor shall take action in accordance with the Contracting Officer's written direction that the aircraft shall be—

(i) Replaced;

(ii) Repaired to the condition immediately prior to the damage; or

(iii) Considered beyond economic repair. The Contracting Officer will decide whether further actions are required under the contract.

(4) If a covered aircraft that has been furnished by the Government to the Contractor is damaged, lost, or destroyed while covered, the Contractor shall take action in accordance with the Contracting Officer's written direction that the aircraft shall be—

(i) Repaired; or

(ii) Considered beyond economic repair. The Contracting Officer will decide further actions required under the contract.

(5) The Contracting Officer will make an equitable adjustment for expenditures made in performing the obligations under this paragraph (g).

(h) *Contractor's share of loss.*

(1) The Contractor's share of loss or damage to covered aircraft, except for loss or damage caused by negligence of Government personnel, is the least of—

(i) $200,000;

(ii) 20 percent of the price or estimated acquisition cost of affected aircraft; or

(iii) 20 percent of the price or estimated cost of the contract, task order, or delivery order.

(2) If the Government requires covered aircraft be replaced or repaired by the Contractor, any resulting equitable adjustment shall not include reimbursement of the Contractor's share of loss.

(3) In the event the Government does not decide to replace or repair, the Contractor agrees to credit the contract price or pay the Government, as directed by the Contracting Officer, the least of—

(i) $200,000;

(ii) 20 percent of the price or estimated acquisition cost of affected aircraft; or

(iii) 20 percent of the price or estimated cost of the contract, task order, or delivery order.

(4) The costs incurred by the Contractor for its share of the loss and for insuring against that loss are unallowable costs, including but not limited to—

(i) The Contractor's share of loss under the Government's self-insurance;

(ii) The costs of the Contractor's self-insurance;

(iii) The deductible for any Contractor-purchased insurance;

(iv) Insurance premiums paid for Contractor-purchased insurance; and

(v) Costs associated with determining, litigating, and defending against the Contractor's liability.

(i) *Reimbursement from a third party.* In the event the Contractor is reimbursed or compensated by a third party for damage, loss, or destruction of covered aircraft and has also been compensated by the Government, the Contractor shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for damage, loss, or destruction. Upon the request of the Contracting Officer or authorized representative, the Contractor shall at Government expense furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment or subrogation) in obtaining recovery.

(j) *Liability to third parties.* Unless the flight and crewmembers have been approved in writing by the GFR, the Contractor shall not be reimbursed for liability to third parties for loss or damage to property or for death or bodily injury caused by covered aircraft during flight, even if the Government has accepted such liability under any other provisions of the contract.

(k) *Subcontracts.* The Contractor shall incorporate the requirements of this clause, including this paragraph (k), in subcontracts to include subcontracts for commercial products and commercial services, except—

(1) The Contractor shall not include paragraph (f) of this clause in subcontracts for commercial products or commercial services; and

(2) The Contractor shall not incorporate the requirements of this clause in subcontracts with Federal Aviation Administration (FAA) part 145 repair stations performing work pursuant to their FAA license.

(End of clause)

■ 8. Amend section 252.228–7003—

■ a. By revising the section heading; and

■ b. In the introductory text by removing ''228.370(c)'' and adding ''228.371(c)'' in its place.

The revision reads as follows:

252.228–7003 Capture and Detention.

* * * * *

■ 9. Amend section 252.228–7005—

■ a. By revising the section heading; and

■ b. In the introductory text by removing ''228.370(d)'' and adding ''228.371(d)'' in its place.

The revision reads as follows:

252.228–7005 Mishap Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.

* * * * *

■ 10. Amend section 252.228–7006—

■ a. By revising the section heading; and

■ b. In the introductory text by removing ''228.370(e)'' and adding ''228.371(e)'' in its place.

The revision reads as follows:

252.228–7006 Compliance with Spanish Laws and Insurance.

* * * * *

■ 11. Add section 252.228–7007 to read as follows:

252.228–7007 Public Aircraft and State Aircraft Operations—Liability.

As prescribed in 228.371(f), use the following clause:

Public Aircraft and State Aircraft Operations—Liability (Mar 2023)

(a) *Definitions.* As used in this clause—

Civil aircraft means an aircraft other than a public aircraft or state aircraft.

Public aircraft means an aircraft that meets the definition in 49 U.S.C. 40102(a)(41) and the qualifications in 49 U.S.C. 40125. Specifically, a public aircraft means any of the following:

(1) An aircraft used only for the Government, except as provided in paragraphs (5) and (7) of this definition.

(2) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in paragraph (7) of this definition.

(3) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in paragraph (7) of this definition.

(4) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in paragraph (7) of this definition.

(5) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by 49 U.S.C. 40125(c). In the preceding sentence, the term ''other commercial air service'' means an aircraft operation that—

(i) Is within the United States territorial airspace;

(ii) The Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public; and

(iii) Must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

(6) An unmanned aircraft that is owned and operated, or exclusively leased for at least 90 continuous days, by an Indian Tribal government, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), except as provided in paragraph (7) of this definition.

(7) As described in 49 U.S.C. 40125(b), an aircraft described in paragraph (1), (2), (3), or (4) of this definition does not qualify as a public aircraft when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

Public aircraft operation means operation of an aircraft that meets the legal definition of public aircraft established in 49 U.S.C. 40102(a)(41) and the legal qualifications for public aircraft status outlined in 49 U.S.C. 40125.

State aircraft means an aircraft operated by the Government for sovereign, noncommercial purposes such as military, customs, and police services. Military aircraft are afforded status as state aircraft. In very rare circumstances, DoD-contracted aircraft may be designated, in writing, by a responsible Government official pursuant to DoD Directive 4500.54E, DoD Foreign Clearance Program, to be operated in state aircraft status, and such status cannot be deemed without a written designation by an authorized Government official.

(b) *Combined regulation/instruction.* Upon award, for contract performance to be conducted as a public aircraft operation, the Contractor shall be bound by the operating procedures contained in the combined regulation/instruction entitled ''Contractor's Flight and Ground Operations'' (Air Force Instruction 10–220, Army Regulation 95–20, NAVAIR Instruction 3710.1 (Series), Coast Guard Instruction M13020.3 (Series), and Defense Contract Management Agency Instruction 8210–1 (Series)) in effect on the date of contract award.

(c) *Contractor liability for operations for contract performance conducted as public aircraft operations or state aircraft operations.*

(1) The Contractor assumes responsibility for all damage or injury to persons or property, including the Contractor's employees and property, and Government personnel and property, occasioned through the use, maintenance, and operation of the Contractor's aircraft or other equipment by, or the action of, the Contractor or the Contractor's employees and agents.

(2) The Contractor, at the Contractor's expense, shall maintain adequate public liability and property damage insurance, including hull insurance for the Contractor's aircraft, during the duration of this contract, insuring the Contractor against all claims for injury or damage.

(3) The Contractor shall maintain workers' compensation and other legally required insurance with respect to the Contractor's own employees and agents.

(4) The Government will in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any aircraft or other equipment by, or the action of, the Contractor or the Contractor's employees and agents in performing under this contract, and the Government shall be indemnified and saved harmless against claims for damage or injury in such cases.

(End of clause)

[FR Doc. 2023–05673 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 242

[Docket DARS–2023–0007]

RIN 0750–AL69

Defense Federal Acquisition Regulation Supplement: Contract Administration Office Functions Relating to Direct Costs (DFARS Case 2022–D021)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify when a contract administration office has authority to negotiate and settle direct costs questioned in incurred cost audits.

DATES: Effective March 22, 2023.

FOR FURTHER INFORMATION CONTACT: David E. Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a final rule to amend the DFARS by adding to section 242.302(b) an additional contract administrative function delegable from a procuring contracting office to a contract administration office. DFARS 242.302(b) specifies functions performed by the contract administration office ''only when and to the extent specifically authorized'' by the procuring contracting office, as stated in Federal Acquisition Regulation (FAR) 42.302. Any administrative functions unspecified under FAR 42.302 or DFARS 242.302, and not otherwise delegated, remain the responsibility of the procuring contracting office. This

rule explicitly allows delegation of authority from the procuring contracting office to the Government contract administration office to negotiate and settle direct costs questioned in incurred cost audits.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it merely involves assignment among DoD agencies of an existing contract administrative function. This rule does not have a significant cost or administrative impact on contractors or offerors, and it does not have a significant effect beyond DoD's internal operating procedures.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Services, and for Commercial Products, Including Commercially Available Off-the-Shelf Items

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions or contract clauses or prescriptions for their use.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 242

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR part 242 is amended as follows:

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 1. The authority citation for 48 CFR part 242 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend section 242.302 by adding paragraph (b)(S–71) to read as follows:

242.302 Contract administration functions.

* * * * *

(b) * * *

(S–71)(A) Except for classified contracts, negotiate or settle questioned direct costs in an incurred cost audit. The procuring contracting officer may delegate this authority to the contract administration office (CAO) only upon prior coordination and agreement with the CAO. Upon such delegation, the procuring contracting officer shall provide the CAO access within 30 days to all supporting documentation in their possession related to the questioned direct costs in an incurred cost audit.

(B) After settlement of the questioned direct costs, the CAO shall provide the procuring contracting office the results of the settlement. The procuring contracting office shall make any adjustments resulting from the settlement on affected contracts and report such adjustments to the CAO.

[FR Doc. 2023–05674 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 243 and 252

[Docket DARS–2023–0001]

Defense Federal Acquisition Regulation Supplement: Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Jennifer D. Johnson, telephone 703–717–8226.

SUPPLEMENTARY INFORMATION: This final rule makes the following changes:

1. A final rule published at 88 FR 6578 on January 31, 2023, provided an incorrect reference at amendatory instruction 149 by citing ''242.205–71'' in lieu of ''243.205–71''. This rule provides the correct amendatory instruction.

2. This rule amends section 252.215–7009, Proposal Adequacy Checklist, at item 18 in the column entitled ''Submission item'' in the introductory text and paragraph a by updating terminology referencing commercial products.

List of Subjects in 48 CFR Parts 243 and 252

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 243 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 243 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 243—CONTRACT MODIFICATIONS

243.205–71 [Amended]

■ 2. Amend section 243.205–71 by removing ''commercial items'' and adding ''commercial products and commercial services'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.215–7009—
■ a. By revising the provision date; and
■ b. In the provision checklist table by revising reference number 18.

The revisions read as follows:

252.215–7009 Proposal Adequacy Checklist.

* * * * *

Proposal Adequacy Checklist (Mar 2023)

* * * * *

PROPOSAL ADEQUACY CHECKLIST

References	Submission item	Proposal page no.	If not provided EXPLAIN (may use continuation pages)
*	* * * * *	*	*
18. FAR 52.215–20, FAR 2.101, ''commercial product'' or ''commercial service''.	Has the offeror submitted an exception to the submission of certified cost or pricing data for commercial products or commercial services proposed either at the prime or subcontractor level, in accordance with provision 52.215–20? a. Has the offeror specifically identified the type of commercial product or commercial service claim (FAR 2.101 ''commercial product'' or ''commercial service'' definition), and the basis on which the commercial product or commercial service meets the definition? b. For modified commercial products (FAR 2.101 ''commercial product'' definition); did the offeror classify the modification(s) as either— i. A modification of a type customarily available in the commercial marketplace (paragraph (3)(i)); or ii. A minor modification (paragraph (3)(ii)) of a type not customarily available in the commercial marketplace made to meet Federal Government requirements not exceeding the thresholds in FAR 15.403–1(c)(3)(iii)(B)? c. For proposed commercial products ''of a type'', or ''evolved'' or modified (FAR 2.101 ''commercial product'' definition), did the contractor provide a technical description of the differences between the proposed item and the comparison item(s)?		
*	* * * * *	*	*

* * * * *

[FR Doc. 2023–05675 Filed 3–21–23; 8:45 am]

BILLING CODE 6820–ep–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

[Docket DARS–2023–0005]

RIN 0750–AK35

Defense Federal Acquisition Regulation Supplement: Export-Controlled Items (DFARS Case 2018–D053)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a requirement for certain contractors to provide export authorizations.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 22, 2023, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2018–D053, using either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2018–D053.'' Select ''Comment'' and follow the instructions to submit a comment. Please include ''DFARS Case 2018–D053'' on any attached documents.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2018–D053 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Kimberly Bass, telephone 703–717–3446.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend the DFARS to enable the Defense Contract Management Agency (DCMA) to obtain export authorizations from certain contractors. Specifically, when a contract requires government quality assurance surveillance oversight and has delivery to, or production or performance in, government quality assurance countries, DoD proposes to require the contractor to provide relevant export authorizations (*i.e.,* export license exemptions, export license exceptions, export licenses, or other approvals) to the cognizant DCMA administrative contracting officer along with contact information for the empowered official or the export point of contact. Government quality assurance countries include the following countries: Australia, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Israel, Italy, Republic of Korea, Netherlands, Norway, Poland, Romania, Slovakia, Spain, Sweden, Turkey, and the United Kingdom.

DCMA has found that a significant amount of time is required to determine whether or not a contractor's export license allows for foreign auditors to perform required quality assurance functions in lieu of DCMA. Currently, DCMA is not able to review the export authorization unless their personnel travel to the contractor's worksite. If DCMA is able to receive and review an export authorization from the contractor to determine whether or not they can delegate the work to foreign auditors, this problem would be resolved.

II. Discussion and Analysis

The proposed rule updates DFARS clause 252.225–7048, Export-Controlled Items, by adding to the clause at paragraph (e) a requirement for certain contractors to provide relevant export authorizations to the cognizant DCMA administrative contracting officer along with contact information for the empowered official or the export point of contact. A contractor will be required to submit this information if their contract requires—

(1) Performance in or delivery to a government quality assurance country; and

(2) Government quality assurance surveillance oversight.

The proposed rule revises the term export-controlled items and adds the following terms to the list of definitions at 252.225–7048: Empowered official, export license exception, export license exemption, government quality assurance countries, other approval, and relevant export authorization. The purpose of adding these definitions to the clause is to clarify for contractors the requirement that is proposed to be added at 252.225–7048(e).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Products Including Commercially Available Off-the-Shelf Items, and for Commercial Services

The proposed rule applies to contracts at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, and for commercial services. This proposed rule requires relevant export authorizations and the contact information of the export point of contact or the empowered official be provided to DCMA for DoD contracts that require government quality assurance surveillance oversight and have delivery to, or performance in, government quality assurance countries. Therefore, the proposed rule will apply to contracts at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, and for commercial services.

IV. Expected Impact of the Proposed Rule

Currently, DCMA is required to cite Federal Acquisition Regulation 4.703(a) in order to obtain access to a contractor's export authorization, which only requires the contractor to make the information available to DCMA, not to submit the information directly to DCMA. Therefore, DCMA personnel are not able to review the information unless they travel to the contractor's international worksite to inspect the export authorization in person.

This proposed rule would require the contractor to provide the information to DCMA and identify a point of contact to answer questions. Receiving the information directly will allow DCMA, without traveling internationally, to make an informed determination regarding whether quality assurance activities must be performed by a U.S. contract administrator or may be delegated to a qualified foreign inspector.

Contractors would already have the export authorization. Therefore, the only burden associated with this proposed rule is providing a copy to the DCMA administrative contracting officer. DoD has calculated this burden in section VIII of this preamble.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is required to enable DCMA to obtain export authorizations from certain contractors. Currently, DCMA is not able to review the information unless their personnel travel to the contractor's worksite. Until DCMA determines if export control items are present and the licenses are examined, DCMA is unable to exercise Host Nation Agreements. Requiring the export control license will allow DCMA to make the determination necessary to exercise Host Nation Agreements.

The objective of this proposed rule is to require certain contractors and subcontractors to provide, upon receipt, relevant export authorizations (*i.e.,* export license exemptions, export license exceptions, export licenses, or other approvals) to the cognizant DCMA administrative contracting officer along with contact information for the empowered official or the export point of contact. The legal basis for the proposed rule is 41 U.S.C. 1303.

Based on the extrapolation from the DCMA Compass database, it is estimated that 723 small entities were awarded DoD contracts that require government quality assurance oversight surveillance and have delivery to, or performance in, government quality assurance countries from May 2018 through May 2019. It is estimated that most of these small entities have subcontracts with delivery to, or performance in, government quality assurance countries. The government quality assurance countries are as follows: Australia, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Israel, Italy, Republic of Korea, Netherlands, Norway, Poland, Romania, Slovakia, Spain, Sweden, Turkey, and the United Kingdom. Any additional burden from having to submit relevant export authorizations along with contact information for the empowered official or the export point of contact to DCMA will impact these small entities.

There are reporting, recordkeeping, or other compliance requirements associated with this proposed rule. The proposed rule may result in a reporting or recordkeeping burden requirement.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule that would meet the proposed objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2018–D053), in correspondence.

VII. Paperwork Reduction Act

This proposed rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request for approval of a new information collection requirement concerning 2018–D053, Export-Controlled Items, to the Office of Management and Budget.

A. Estimate of Public Burden

Public reporting burden for this collection of information is estimated to average 4 hours per response for: (1) the contractor to locate the contact information for the cognizant DCMA Office using the DCMA locater website; (2) the contractor to provide relevant export authorizations and contact information for the empowered official or export point of contact to DCMA; and (3) if necessary, for the empowered official to provide clarifications to DCMA.

The annual reporting burden is estimated as follows for all contractors with awards that require government quality assurance surveillance oversight and have delivery to, or production or performance in, government quality assurance countries:

Respondents: 3,614.

Responses per Respondent: 1.

Total Annual Responses: 3,614.

Preparation Hours per Response: 4 hours.

Total Response Burden Hours: 14,456.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for ''DFARS Case 2018–D053.'' Select ''Comment'' and follow the instructions to submit a comment. Please include ''Paperwork Burden—DFARS Case 2018–D053'' on any attached documents. Comments must be submitted by the date for submission of public comments shown in the **DATES** section of this preamble.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To obtain a copy of the supporting statement and associated collection instruments, please email *osd.dfars@mail.mil.* Include DFARS Case 2018–D053 in the subject line of the message.

List of Subjects in 48 CFR Parts 212, 225, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 225, and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 2. Amend section 212.301 by—

■ a. Redesignating paragraphs (f)(ix)(CC) through (MM) as (f)(ix)(DD) through (NN); and

■ b. Adding a new paragraph (f)(ix)(CC).

The addition reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(ix) * * *

(CC) Use the clause at 252.225–7048, Export-Controlled Items, as prescribed in 225.7901–4, to comply with section 890(a) of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181).

* * * * *

PART 225—FOREIGN ACQUISITION

■ 3. Revise section 225.7901–1 to read as follows:

225.7901–1 Definitions.

As used in this section—

Export-controlled items means—

(1) Any information or material that cannot be released to foreign nationals or representatives of a foreign entity, without first obtaining approval or license from the Department of State or the Department of Commerce;

(2) Items subject to the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130) or the Export Administration Regulations (EAR) (15 CFR parts 730 through 774); and

(3) Includes—

(i) ''Defense article'' (22 CFR 120.31), which means any item or technical data that is specifically designed, developed, configured, adapted, or modified for a military or other controlled use listed on the U.S. Munitions List;

(ii) ''Defense service'' (22 CFR 120.32), which means providing technical data, assistance, or training to a foreign person in the design, manufacture, installation, repair, or operation of a defense article;

(iii) ''Technical data'' (22 CFR 120.33), which means any information for the design, development, assembly, production, operation, repair, testing, maintenance, or modification of a defense article; and

(iv) ''Item,'' defined in the EAR (15 CFR 772.1) as ''commodities, software, and technology''.

225.7901–2 [Amended]

■ 4. Amend section 225.7901–2 by removing ''International Traffic in Arms Regulations'' and ''Export Administration Regulations'' and adding ''ITAR'' and ''EAR'' in their places, respectively.

■ 5. Revise section 225.7901–4 to read as follows:

225.7901–4 Contract clause.

Use the clause at 252.225–7048, Export-Controlled Items, in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services.

225.7902–2 [Amended]

■ 6. Amend section 225.7902–2 by removing ''International Traffic in Arms Regulation (ITAR)'' and adding ''ITAR'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 252.225–7048–

■ a. In the clause heading, by removing the date ''(JUN 2013)'' and adding ''(DATE)'' in its place;

■ b. By revising paragraph (a);

■ c. In paragraphs (d)(4) and (5), by removing ''Parts'' and adding ''parts'' in its place;

■ d. By redesignating paragraph (e) as paragraph (f);

■ e. By adding a new paragraph (e); and

■ f. By revising the newly redesignated paragraph (f).

The revisions and addition read as follows.

252.225-7048 Export-Controlled Items.

* * * * *

(a) *Definitions.* As used in this clause—

Empowered official, as defined in the International Traffic in Arms Regulations (ITAR) at 22 CFR 120.67, means—

(1) A U.S. person who—

(i) Is directly employed by the applicant or a subsidiary in a position having authority for policy or management within the applicant organization;

(ii) Is legally empowered in writing by the applicant to sign license applications or other requests for approval on behalf of the applicant;

(iii) Understands the provisions and requirements of the various export control statutes and regulations, and the criminal liability, civil liability, and administrative penalties for violating the Arms Export Control Act and the ITAR; and

(iv) Has the independent authority to—

(A) Inquire into any aspect of a proposed export, temporary import, or brokering activity by the applicant;

(B) Verify the legality of the transaction and the accuracy of the information to be submitted; and

(C) Refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

(2) For the purposes of a broker who is a foreign person, the empowered official may be a foreign person who otherwise meets the criteria for an empowered official in paragraph (1) of this definition.

Export-controlled items means—

(1) Any information or material that cannot be released to foreign nationals or representatives of a foreign entity, without first obtaining approval or license from the Department of State or the Department of Commerce;

(2) Items subject to the ITAR (22 CFR parts 120 through 130) or the Export Administration Regulations (EAR) (15 CFR parts 730 through 774); and

(3) Includes—

(i) ''Defense article'' (22 CFR 120.31), which means any item or technical data that is specifically designed, developed, configured, adapted, or modified for a military or other controlled use listed on the U.S. Munitions List;

(ii) ''Defense service'' (22 CFR 120.32), which means providing technical data, assistance, or training to a foreign person in the design, manufacture, installation, repair, or operation of a defense article;

(iii) ''Technical data'' (22 CFR 120.33), which means any information for the design, development, assembly, production, operation, repair, testing, maintenance, or modification of a defense article; and

(iv) ''Item,'' defined in the EAR (15 CFR 772.1) as ''commodities, software, and technology''.

Export license exception means a special authorization that allows export or re-export, under stated conditions, of items that are subject to the EAR that would otherwise require an export license. Export license exceptions are detailed in the EAR, 15 CFR 740.

Export license exemption means the authorization that exempts the item or items from the otherwise applicable licensing requirements under certain conditions. Export license exemptions are detailed in the ITAR, 22 CFR parts 120 through 130.

Government quality assurance countries means countries that have current Government Reciprocal Quality Assurance agreements with the Department of Defense or Reciprocal Government Quality Assurance annexes contained in a Reciprocal Defense Procurement Memorandum of Understanding. Accordingly, the following are government quality assurance countries: Australia, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Israel, Italy, Republic of Korea, Netherlands, Norway, Poland, Romania, Slovakia, Spain, Sweden, Turkey, and the United Kingdom.

''Other approval'' as defined in the ITAR at 22 CFR 120.57, means a document issued by the Deputy Assistant Secretary of State for Defense Trade Controls, or authorized designee, that approves an activity regulated by the ITAR (*e.g.,* approvals for brokering activities or retransfer authorizations), or the use of an exemption to the license requirements as described in the ITAR.

Relevant export authorization means an export license exemption, export license exception, export license, or other approval.

* * * * *

(e)(1) If the contract requires government quality assurance surveillance oversight and has delivery to, or production or performance in, government quality assurance countries, the Contractor shall, upon receipt of relevant export authorizations, provide to the Defense Contract Management Agency (DCMA) Administrative Contracting Officer—

(i) A copy of the relevant export authorizations; and

(ii) Contact information for the empowered official or the export point of contact.

(2) The DCMA administrative contracting officer locater can be found at *https://pubmini.dcma.mil/CMT_View/CMT_View_Search.cfm.*

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

* * * * *

[FR Doc. 2023–05676 Filed 3–21–23; 8:45 am]

BILLING CODE 50010–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

[Docket DARS–2023–0006]

RIN 0750–AL39

Defense Federal Acquisition Regulation Supplement: Restrictions on Overhaul and Repair of Naval Vessels in Foreign Shipyards (DFARS Case 2021–D021)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2021 that restricts overhaul and repair of a naval vessel in a shipyard outside the United States or Guam.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 22, 2023, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2021–D021, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2021–D021.'' Select ''Comment'' and follow the instructions to submit a comment. Please include ''DFARS Case 2021–D021'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2021–D021 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Kimberly Bass, telephone 703–717–3446.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement section 1025 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283). Section 1025 amends 10 U.S.C. 8680(a) to restrict the overhaul or repair of a naval vessel in a shipyard outside the United States or Guam. The restriction does not apply to voyage repairs or to repairs required for damage sustained due to hostile actions or interventions. In addition, the restriction does not apply to a naval vessel classified as a littoral combat ship operating on deployment for corrective and preventive maintenance or repair and facilities maintenance.

The proposed rule also establishes the criteria under which foreign workers or foreign contractors may be used to perform corrective and preventive maintenance or repair or facilities maintenance on a naval vessel.

II. Discussion and Analysis

A. Overhaul and Repair Restrictions

The proposed revisions to the DFARS implement the 10 U.S.C. 8680(a) restrictions and identify the exceptions for the repair of damage sustained as a result of hostile actions or interventions and for corrective and preventive maintenance and facilities maintenance on a littoral combat ship operating on deployment. DFARS 225.7013 is revised to add definitions at 225.7013–1 and expand restrictions at 225.7013–2.

B. Definitions

DFARS 225.7013–1, Definitions, is added to define the terms ''corrective and preventive maintenance or repair'' and ''facilities maintenance'' as defined in 10 U.S.C. 8680.

C. Restrictions and Exceptions

DFARS 225.7013–2(a) restates the restriction previously located at DFARS 225.7013(a) to not award a contract to construct a vessel or major component of a vessel in a foreign shipyard. DFARS 225.7013–2(b) provides the restriction to not overhaul, repair, or maintain in a shipyard outside the United States or Guam, except the restriction does not apply to: (1) voyage repairs or repairs necessary to correct damage sustained due to hostile actions or interventions; and (2) corrective and preventive maintenance or repair or facilities maintenance on a naval vessel classified as a littoral combat ship operating on deployment.

D. Foreign Workers and Contractors

DFARS 225.7013–2(b) also specifies the circumstances in which foreign workers and contractors may be used to maintain or repair littoral combat ships operating on deployment. Foreign workers may be used only if the Secretary of the Navy, without further delegation, determines that travel by U.S. Government or contractor personnel is not advisable for health or safety reasons. Foreign contractors may be used to perform facilities maintenance only as approved by the Secretary of Navy.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Products, Including Commercially Available Off-the-Shelf Items, and Commercial Services

This proposed rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions or contract clauses or prescriptions for their use.

IV. Expected Impact of the Proposed Rule

Currently, DFARS 225.7013 includes the restrictions on the construction or repair of vessels in foreign shipyards. This proposed rule adds the exception for repairs necessary to correct damage

sustained due to hostile actions or interventions and for corrective and preventive maintenance or repair and facilities maintenance on naval vessels classified as littoral combat ships operating on deployment. Under these exceptions, the repairs or maintenance described above may be performed in a shipyard outside the United States or Guam in accordance with 10 U.S.C. 8680(a). The proposed rule also specifies the authorized use of foreign workers under certain conditions when a determination is made by the Secretary of the Navy, who cannot further delegate the authority to make such a determination.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule only includes the restrictions on the construction or repair of vessels in shipyards outside the United States or Guam. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD proposes to amend the DFARS to implement section 1025 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283) that amends 10 U.S.C. 8680(a). Section 1025 restricts the overhaul or repair of a naval vessel in a shipyard outside the United States or Guam, unless the repairs are: (1) voyage repairs or repairs necessary to correct damage sustained due to hostile actions or interventions; or (2) to a naval vessel classified as a littoral combat ship operating on deployment for corrective and preventive maintenance or repair and facilities maintenance. The proposed rule also establishes that: (1) foreign workers may not be used to perform corrective and preventive maintenance or repair on a naval vessel, unless the Secretary of the Navy (without further delegation) makes a determination; and (2) foreign contractors may not be used to perform facilities maintenance unless approved by the Secretary of the Navy.

The objective of the proposed rule is to implement the restrictions of section 1025. The legal basis for the proposed rule is section 1025 of the NDAA for FY 2021.

DoD reviewed data from the Federal Procurement Data System (FPDS) for fiscal years 2019, 2020, and 2021 for contracts for the repair or overhaul of naval vessels outside the United States or Guam that exceeded the simplified acquisition threshold. DoD awarded a total of 379 contracts to an average of 222 unique small entities.

It is expected that this proposed rule will continue to provide small businesses the opportunity to participate in acquisitions for the overhaul or repair of a naval vessel in a shipyard outside the United States or Guam, since naval vessel overhaul restrictions currently exist and this rule provides exceptions that allow for U.S. contractor personnel to perform certain repairs and maintenance in accordance with 10 U.S.C. 8680.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule that would meet the requirements of the statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2021–D021), in correspondence.

VII. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 225

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is proposed to be amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 225.7013 to read as follows:

225.7013 Restrictions on construction or repair of vessels in foreign shipyards.

■ 3. Add sections 225.7013–0, 225.7013–1, and 225.7013–2 to read as follows:

225.7013–0 Scope.

This section implements 10 U.S.C. 8679 and 10 U.S.C. 8680.

225.7013–1 Definitions.

As used in this section—

Corrective and preventive maintenance or repair means—

(1) Maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(2) Scheduled maintenance or repair actions to prevent or discover functional failures.

Facilities maintenance means the effort required to—

(1) Provide housekeeping services throughout the ship;

(2) Perform coating maintenance and repair to exterior and interior surfaces due to normal environmental conditions; and

(3) Clean mechanical spaces, mission zones, and topside spaces.

225.7013–2 Restrictions.

(a) *Contract award (10 U.S.C. 8679).* Do not award a contract to construct in a foreign shipyard—

(1) A vessel for any of the armed forces; or

(2) A major component of the hull or superstructure of a vessel for any of the armed forces.

(b) *Overhaul, repair, or maintenance (10 U.S.C. 8680).* (1) Do not overhaul, repair, or maintain, in a shipyard outside the United States or Guam, a naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) homeported in the United States or Guam.

(2) This restriction on overhaul, repair, or maintenance does not apply to—

(i) Voyage repairs;

(ii) Repairs necessary to correct damage sustained due to hostile actions or interventions.

(3) For a naval vessel classified as a littoral combat ship and operating on deployment—

(i) Corrective and preventive maintenance or repair, whether intermediate or depot level, and facilities maintenance may be performed if the work is performed by U.S. Government personnel or U.S. contractor personnel—

(A) In a foreign shipyard;

(B) At a facility outside of a foreign shipyard; or

(C) At any other facility convenient to the vessel.

(ii) Foreign workers may be used to perform corrective and preventive maintenance or repair, only if the Secretary of the Navy, without power of delegation, determines that travel by U.S. Government or contractor personnel to perform the maintenance or repair is not advisable for health or safety reasons.

(iii) Foreign contractors may perform facilities maintenance only as approved by the Secretary of Navy.

[FR Doc. 2023–05677 Filed 3–21–23; 8:45 am]

BILLING CODE 5001–066–P

Reader Aids

Federal Register

Vol. 88, No. 55

Wednesday, March 22, 2023

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, MARCH

12803–13014 1
13015–13290 2
13291–13654 3
13655–14046 6
14047–14248 7
14249–14472 8
14473–14870 9
14871–15264 10
15265–15596 13
15597–15900 14
15901–16168 15
16169–16370 16
16371–16530 17
16531–16868 20
16869–17142 21
17143–17362 22

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

1201 12805

Proposed Rules:

184 14514
210 14514

3 CFR

Proclamations:

9704 (amended by Proc. 10522) 13267
9980 (revised by Proc. 10522) 13267
10521 12803
10522 13267
10523 13277
10524 13291
10525 13293
10526 13295
10527 13297
10528 13655
10529 14249
10530 16169
10531 17143

Executive Orders:

14092 16527

Administrative Orders:

Memorandums:
Memorandum of February 27, 2023 13015
Memorandum of March 3, 2023 15267
Notices:
Notice of March 1, 2023 13285
Notice of March 1, 2023 13287
Notice of March 1, 2023 13289
Notice of March 10, 2023 15595
Orders:
Order of March 13, 2023 16171
Presidential Determinations:
No. 2023–05 of Mar. 1, 2023 13657
No. 2023–04 of February 24, 2023 15265

5 CFR

630 15597

6 CFR

37 14473

7 CFR

354 16371–
905 14477
906 14479
993 14481
1222 14484
1710 12806

Proposed Rules:

52 14296
984 14083

8 CFR

208 16372

9 CFR

1 16173
2 16173
3 16173

Proposed Rules:

1 14090
2 14090
3 14090
410 12870
412 15290

9 CFR

Proposed Rules:

71 16576
77 16576
78 16576
86 16576

10 CFR

20 15864
21 15864
26 15864
50 15864
70 15864
72 .....13017, 15864
73 15864
74 15864
76 15864
429 .....14014, 15510, 16052
430 .....14014, 15510, 16052, 16869

Proposed Rules:

Ch. I 14091
50 .....13717, 13735, 14957, 15620
51 .....13329, 14958
52 .....13735, 14957
72 17164
73 17165
170 13357
171 13357
430 .....13520, 16112

11 CFR

Proposed Rules:

113 13384

12 CFR

Ch. X 16531
748 12811
1238 14871

Proposed Rules:

1026 16198
1240 15306

14 CFR

25 13299
39 ..... 12817, 12820, 13301, 13303, 13306, 13309, 13311, 13313, 13659, 13662, 13665, 13668, 13671, 14871, 14874, 14877, 14880, 14883, 14885, 15269, 15600, 15604, 15607, 15609, 15901, 16174
43 15905
65 15905
71 ..... 14047, 14048, 14486
91 16871
97 ..... 14487, 14488
147 15905

Proposed Rules:

21 ..... 13071, 14092
25 ..... 13071, 14092
29 ..... 13071, 14092
39 ..... 13385, 14298, 14301, 14303, 14306, 15333
71 ..... 12870, 12872, 13737, 13739, 13740, 13742, 13744, 14514, 14516
259 ..... 13387, 15620
260 ..... 13387, 15620
399 ..... 13387, 13389, 15620, 15622

15 CFR

744 13673

16 CFR

1220 13686

Proposed Rules:

260 14092

17 CFR

232 13872
240 13872
275 13872

Proposed Rules:

230 16921
232 16921
239 16921
270 16921
274 16921
275 ..... 14672, 16921
279 ..... 14672, 16921

19 CFR

206 14887
207 14887

20 CFR

Proposed Rules:

726 14094

21 CFR

10 16878
11 13018
73 16182
510 ..... 14893, 16543
516 16543
520 ..... 14893, 16543
522 ..... 14893, 16543
524 ..... 14893, 16543
526 ..... 14893, 16543
528 14893
529 16543
556 16543
558 ..... 14893, 16543
803 16878
812 16878
822 16878
900 15126
1100 16551
1107 16551
1114 16551
1140 16551
1143 16551
1308 13692

Proposed Rules:

14 14960
130 12870
1120 ..... 14960, 14962, 15174
1300 ..... 12875, 12890
1304 ..... 12875, 12890
1306 ..... 12875, 12890

22 CFR

41 13694

Proposed Rules:

42 16384

24 CFR

203 ..... 12822, 14252
206 12822

Proposed Rules:

202 12906
581 16834

25 CFR

140 13018
141 13018
211 13018
213 13018
225 13018
226 13018
227 13018
243 13018
249 13018

Proposed Rules:

226 16386

26 CFR

31 14490
301 14259

27 CFR

Proposed Rules:

9 13072

29 CFR

102 ..... 14908, 14913
1635 17145
1952 16880
1989 15271
4044 5906

31 CFR

16 16885
27 16885
50 16885
587 ..... 13316, 16887, 16889
591 ..... 13022, 13024

32 CFR

310 16182

33 CFR

100 ..... 14259, 15275
110 16185
117 16891
165 ..... 12829, 12831, 13026, 13316, 14259, 14262, 14265, 14266, 14916, 16188, 16378, 16553, 16893, 17145
401 14266
402 ..... 15275, 16556

Proposed Rules:

100 ..... 14309, 16386
147 ..... 13745, 15939
165 ..... 15625, 16576, 16922

34 CFR

Proposed Rules:

Ch. II 15336
662 16924
663 16924

36 CFR

Proposed Rules:

13 14963
251 14517

37 CFR

1 ..... 13028, 17147
41 17147
202 16190

38 CFR

3 15277
9 15907
17 13033

Proposed Rules:

3 17166
38 17169

39 CFR

111 14268

Proposed Rules:

3006 15343
3010 13752
3011 15343
3035 13752
3040 13752

40 CFR

9 13696
52 ..... 12831, 12833, 12835, 13320, 13713, 14049, 14269, 14276, 14278, 14490, 14918, 16556, 16564, 17159, 17161
60 ..... 14918, 16732
62 15611
63 ..... 13956, 14280, 16732
81 ..... 14291, 14920
86 15278
174 ..... 15613, 15915
180 ..... 14491, 14495, 15279, 15616, 16379, 16570
266 16732
271 13034
721 13696
1037 15278

Proposed Rules:

50 15940
52 ..... 13392, 13394, 13752, 13755, 14095, 14104, 15629
70 14104
170 15346
271 13077
751 16389
1090 13758

41 CFR

60–1 12842
102–73 14058

Proposed Rules:

51 15360
102–75 16551
302 15635
303 15635
304 15635
305 15635
306 15635
307 15635
308 15635
309 15635

42 CFR

73 13322
405 15918
410 15918
411 15918
414 15918
415 15918
423 15918
424 15918
425 15918
455 15918

45 CFR

Proposed Rules:

12 16551
160 16392
162 16392

46 CFR

110 16310
111 16310
112 16310
113 16310
502 ..... 16573, 16894
503 16894
520 16894
530 16894
535 16894
540 16894
550 16894
555 16894
560 16894

47 CFR

64 14251
73 ..... 13715, 14294
300 13715

Proposed Rules:

2 14312
27 16932
54 ..... 14529, 15558
64 15558
73 ..... 13398, 13770, 14107, 15637, 16205, 16206, 16392, 17171

48 CFR

204 17336
208 17336
209 17336
212 ..... 12861, 12862, 17336
213 17336
215 17336
216 17336
225 12861
227 17340
228 17346
232 12862
237 17340
239 17340
242 ..... 12864, 17346, 17354
243 17355
252 ..... 12861, 12862, 17336, 17340, 17346, 17355

Proposed Rules:

212 17357
225 ..... 17357, 17360
252 17357
538 15941

49 CFR

Proposed Rules:
107 13624
171 13624
172 13624
173 13624
178 13624
180 13624
227 17302
367 16207
371 14322
386 14323
387 14323

50 CFR

17 ....13038, 14794, 15921
229 16899
300 14066
622 16194
648 14499
660 12865
665 14081
679 ....12868, 13238, 13328, 14294, 14512, 14926, 16196, 16920

Proposed Rules:
17 ....14536, 16776, 16933
36 14107
217 14560
223 16212
300 13399
622 ....13077, 14964
635 ....13771, 17171
648 ....13408, 14110, 14590, 15944

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List January 10, 2023

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__*layouts/PG/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.