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

Federal Register
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Tuesday, December 19, 2023

Presidential Documents

Title 3—

The President

Memorandum of December 7, 2023

Delegation of Certain Functions and Authorities Under the Uyghur Human Rights Policy Act of 2020 and Public Law 117–78

Memorandum for the Secretary of State[,] the Secretary of the Treasury[, and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

Section 1. (a) I hereby delegate to the Secretary of State, in consultation with the Secretary of the Treasury, the functions and authorities vested in the President by the following provisions of the Uyghur Human Rights Policy Act of 2020 (Public Law 116–145) (UHRPA) and Public Law 117–78:

(i) section 6(a)(1) of the UHRPA, with respect to submitting the report;

(ii) section 6(e) of the UHRPA; and

(iii) section 5(c)(1) of Public Law 117–78, with respect to submitting the report.

(b) I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by the following provisions of the UHRPA and Public Law 117–78:

(i) section 6(a)(1) of the UHRPA, with respect to making the determinations;

(ii) section 6(g) of the UHRPA, with respect to terminating the sanctions described in section 6(c)(1) of the UHRPA and imposed under section 6(b) of the UHRPA; and

(iii) section 5(c)(1) of Public Law 117–78, with respect to making the determinations.

(c) I hereby delegate to the Secretary of the Treasury the functions and authorities vested in the President by the following provisions of the UHRPA and Public Law 117–78:

(i) section 6(b) of the UHRPA, with respect to imposing the sanctions described in section 6(c)(1) of the UHRPA;

(ii) section 6(c)(1) of the UHRPA;

(iii) section 6(d) of the UHRPA; and

(iv) section 5(c)(2) of Public Law 117–78, with respect to imposing the sanctions described in section 6(c)(1) of the UHRPA.

(d) I hereby delegate to the Secretary of State, in consultation with the Secretary of Homeland Security, the functions and authorities vested in the President by the following provisions of the UHRPA and Public Law 117–78:

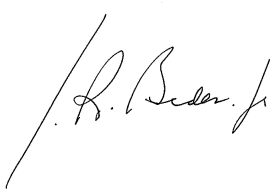
(i) section 6(b) of the UHRPA, with respect to imposing the sanctions described in section 6(c)(2) of the UHRPA;

(ii) section 6(g) of the UHRPA, with respect to terminating the sanctions described in section 6(c)(2) of the UHRPA and imposed under section 6(b) of the UHRPA; and

(iii) section 5(c)(2) of Public Law 117–78, with respect to imposing the sanctions described in section 6(c)(2) of the UHRPA.

Sec. 2. The delegations in this memorandum shall apply to any provisions of any future public laws that are the same or substantially the same as those provisions referenced in this memorandum.

Sec. 3. The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, December 7, 2023

[FR Doc. 2023–27999
Filed 12–18–23; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Proclamation 10686 of December 14, 2023

Bill of Rights Day, 2023

By the President of the United States of America

A Proclamation

On December 15, 1791, after years of debate and deliberation, our forebearers ratified the Bill of Rights. In doing so, they forever enshrined the fundamental rights and liberties we hold sacred as Americans and set in motion the greatest self-governance experiment in the history of the world.

The freedoms guaranteed by the Bill of Rights—the freedoms of religion, speech, press, assembly, privacy, and more—have helped define who we are as a people and served as our Nation's enduring North Star. The 17 additional Amendments that have been ratified since have opened the doors of opportunity wider to each new generation. But time and again we have been reminded that progress is not linear and freedom is never guaranteed; it requires constant vigilance.

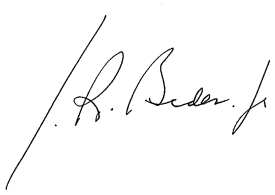
The Supreme Court took away a constitutional right from the American people, denying women across the Nation the right to choose, a right that had been enshrined in a half-century of precedent. In recent years, more than 20 States have passed laws that make it harder to vote. A wave of anti-LGBTQI+ bills is threatening Americans' freedom to live openly and authentically. As a Nation, we have a duty to oppose these regressions and defend the values represented in our founding documents.

As President, I act on that duty every day. In the wake of the Supreme Court decision overturning *Roe* v. *Wade,* I issued three Executive Orders to protect a woman's ability to access comprehensive reproductive health care services. I continue to call on the Congress to restore the protections of *Roe* v. *Wade* in Federal law. Because the right to vote and have your vote counted is the threshold of democracy, I continue to urge the Congress to pass the Freedom to Vote Act and the John Lewis Voting Rights Advancement Act. These bills would restore and expand access to the ballot and prevent voter suppression. I was also proud to sign the Electoral Count Reform Act, helping preserve the will of the people and protect the peaceful transfer of power. My Administration has made strides in defending the rights and dignity of the LGBTQI+ community. On my first day in office, I signed a historic Executive Order charging the Federal Government with protecting LGBTQI+ people from discrimination. Last December, surrounded by dozens of couples who have fought for marriage equality in the courts for decades, I had the great honor of signing into law the landmark Respect for Marriage Act to protect the rights of same-sex and interracial couples.

It is worth giving our all for the rights and liberties that undergird our democracy, for they define the soul of our Nation. This cause should unite every one of us, regardless of political affiliation. In the face of threats posed to our institutions, we must remember that democracies do not have to die violently—they can die quietly, when people fail to stand up for the values and guarantees enshrined in our Nation's Constitution. This Bill of Rights Day, let us all recommit to safeguarding the fundamental freedoms secured in those first 10 Amendments and those that followed. In our lives and in the life of our Nation, let us keep marching toward our North Star—making real the promise of dignity, equality, and opportunity for all.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 15, 2023, as Bill of Rights Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

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



[FR Doc. 2023–27968
Filed 12–18–23; 8:45 am]
Billing code 3395–F4–P

Rules and Regulations

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Tuesday, December 19, 2023

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2022–1378]

Airworthiness Criteria: Primary Category Airworthiness Design Criteria for the ICON Aircraft Inc., Model A5–B Airplane; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Issuance of final airworthiness criteria; correction.

SUMMARY: The FAA published a document in the **Federal Register** on November 28, 2023, announcing the primary category airworthiness design criteria for type certification of the ICON Aircraft Inc., (ICON) Model A5–B airplane. The document contained incorrect references to the aircraft and engine model numbers.

DATES: This correction is effective on December 19, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond N. Johnston, Avionics Navigation & Flight Deck Unit (AIR–626B), Avionics & Electrical Systems Section, Technical Policy Branch, Policy & Standards Division, Aircraft Certification Service, Federal Aviation Administration, 901 Locust Street, Room 301, Kansas City, MO 64106; phone (816) 329–4159, fax (816) 329–4090, email *raymond.johnston@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On November 20, 2023, the FAA issued final airworthiness criteria for the ICON Model A5–B airplane, which published in the **Federal Register** on November 28, 2023 (88 FR 83019). As published, the document incorrectly referred to the wrong aircraft and engine model numbers. Additionally, the FAA has certified the engine, as indicated by type certificate data sheet (TCDS) E00051EN, and therefore the additional airworthiness criteria listed in Table 8: FAA Validation of EASA State of Design Reciprocating Aircraft Engines is no longer required. The criteria as published would have applied to an engine certified by the European Aviation Safety Agency (EASA) that did not have a corresponding FAA type certificate.

Correction

In the **Federal Register** of Tuesday, November 28, 2023, appearing at 88 FR 83019, make the following corrections:

1. On page 83019—

a. In the first column in the document's subject heading, correct aircraft model number to read ''A5–B'';

b. In the first column, in the **SUMMARY** section, correct aircraft model number to read ''A5–B'';

c. In the first and second columns, under the heading ''Background,'' in the second paragraph, correct the engine model number ''Rotax 912 iS Sport'' to read ''Rotax 912 iSc2 Sport'' and correct the last sentence of the second paragraph to read ''The FAA does not plan to issue a TC for the propeller'';

d. In the third column, under the heading ''Airworthiness Criteria,'' correct the second paragraph to read ''The airworthiness criteria for the issuance of a TC for the ICON Aircraft, Inc., Model A5–B airplane, a primary category airplane, and its powerplant installation is listed in Tables 1 through 7 below'';

2. On page 83020, in ''Table 1: Airplane Certification Basis,'' in the subject entry for ''Engine''—

a. In the ''Consensus standard or regulation'' column, correct ''14 CFR part 33, Amendment 33–34'' to read ''14 CFR part 33'';

b. In the ''Title and description'' column, correct the description to read ''Utilize the certification basis as indicated for the engine TCDS E00051EN''; and

3. On page 83022, in the first column—

a. Remove the first paragraph;

c. Remove ''Table 8: FAA Validation of EASA State of Design Reciprocating Aircraft Engines''; and

b. Remove footnote 2 ''CS–E, Amendment 6—Aircraft cybersecurity''.

Issued in Washington, District of Columbia, on December 14, 2023.

Min Zhang,

Acting Manager, Certification Coordination Section, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2023–27835 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1645; Project Identifier MCAI–2022–01296–T; Amendment 39–22613; AD 2023–23–11]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–12–07, which applied to all Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–12–07 required replacement of both main landing gear (MLG) shock absorbers, an identification of affected MLG sliding tubes; inspection of affected chromium plates and sliding tube axles for damage; and replacement of the sliding tube if necessary. AD 2019–12–07 also required repetitive inspections of affected MLG sliding tubes for cracking, replacement of cracked MLG sliding tubes, and eventual replacement of each affected MLG sliding tube. This AD continues to require the actions specified in AD 2019–12–07 and requires repetitive inspections of additional MLG sliding tubes, replacement if necessary, and eventual replacement of the additional MLG sliding tubes. This AD also extends the repetitive inspection interval. This AD also prohibits the installation of affected parts under certain conditions. This AD was prompted by the FAA's determination that additional MLG sliding tubes are affected by the unsafe condition and

that the repetitive inspection interval may be extended. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 23, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 23, 2024.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 1, 2019 (84 FR 30579, June 27, 2019).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of February 22, 2017 (82 FR 5362, January 18, 2017).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of June 29, 2007 (72 FR 29241, May 25, 2007).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of June 23, 2004 (69 FR 31867, June 8, 2004).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1645; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; website *airbus.com*.
- For Safran and Messier-Dowty service information identified in this final rule, contact Safran Landing Systems, One Carbon Way, Walton, KY 41094; telephone 859–525–8583; fax 859–485–8827; website *www.safran-landing-systems.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–1645.

FOR FURTHER INFORMATION CONTACT: Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3667; email: *Timothy.P.Dowling@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–12–07, Amendment 39–19662 (84 FR 30579, June 27, 2019) (AD 2019–12–07). AD 2019–12–07 applied to all Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–12–07 required replacement of both MLG shock absorbers, an identification of the part number and serial number of the MLG sliding tubes, inspection of affected chromium plates and sliding tube axles for damage, and replacement of the sliding tube if necessary. AD 2019–12–07 also required repetitive inspections of affected MLG sliding tubes for cracking, replacement of cracked MLG sliding tubes, and eventual replacement of each affected MLG sliding tube. The FAA issued AD 2019–12–07 to address cracking in an MLG sliding tube, which could lead to failure of an MLG sliding tube resulting in MLG collapse, damage to the airplane, and injury to passengers.

The NPRM published in the **Federal Register** on August 1, 2023 (88 FR 50067). The NPRM was prompted by AD 2022–0204R1, dated February 15, 2023; corrected February 17, 2023, issued by The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union (EASA AD 2022–0204R1) (also referred to as the MCAI). The MCAI states that since EASA AD 2018–0135, dated June 26, 2018, was issued (which corresponds to FAA AD 2019–12–07), two additional cases have been reported of cracking at the same location of MLG sliding tubes not affected by the inspection requirements and that service information was issued to include additional actions for the newly affected MLG sliding tubes. In addition, further investigation determined the repetitive inspection interval may be extended from 5,000 flight cycles to 10,000 flight cycles.

In the NPRM, the FAA proposed to continue to require the actions specified in AD 2019–12–07 and proposed to require repetitive inspections of additional MLG sliding tubes, replacement if necessary, and eventual replacement of the additional MLG sliding tubes. In the NPRM, the FAA also proposed to extend the repetitive inspection interval and to prohibit the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1645.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from four commenters, including American Airlines, SIAEC, United Airlines (United), and Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Allow Parts Inspected Using Component Maintenance Manuals (CMMs)

American Airlines, SIAEC, United, and Delta requested that the proposed AD be revised to identify MLG sliding tubes that were inspected using certain CMMs identified in EASA AD 2022–0204R1 as acceptable parts. American Airlines requested that paragraph (w)(1) of the proposed AD be revised to include CMM references that include inspections as acceptable actions for the on-wing inspections. Delta requested that both paragraph (n)(2) and (w)(1) of the proposed AD be revised to include parts that have passed inspection using the CMMs. American Airlines and SIAEC stated that paragraph (w)(1) of the proposed AD does not include as serviceable parts MLG sliding tubes that have been inspected and repaired using the CMMs specified in EASA AD 2022–0204R1.

United requested the FAA definition of serviceable parts be revised to include those that were overhauled per the CMMs identified in EASA AD 2022–0204R1 and the Safran service information identified in EASA AD 2022–0204R1.

The FAA agrees to revise paragraphs (n)(2) and (w)(1) of this AD, which include definitions of affected parts with exceptions. This change addresses United's request to revise the definition of serviceable parts specified in paragraph (w)(2) of this AD. The FAA has revised the exception language in

paragraphs (n)(2) and (w)(1) of this AD to include parts that have passed an inspection specified in Safran CMM task 32–11–33 (K0654), Revision 71, dated September 2020, or later; CMM task 32–12–25 (K0654), Revision 61, dated March 2020, or later; CMM task 32–12–12 (K0654), Revision 57, dated September 2020, or later; or CMM task 32–12–22 (K0654), Revision 56, dated March 2020, or later; as applicable.

Regarding the comment that the repair of MLG sliding tubes using the CMMs specified in EASA AD 2022–0204R1 was not included in paragraph (w)(1) of the proposed AD, with the change to paragraph (w)(1) of this AD described previously, those repairs are included. As specified in paragraph (w)(1) of this AD repairs must have been done using instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

Request for Revise Format

United requested that the FAA revise the format of the proposed AD. United stated that the proposed AD restates the requirements of previously issued FAA ADs under paragraph (g) through (v) of the proposed AD and adds new requirements from paragraph (w) through (cc) of the proposed AD. United stated it found the restatements to be unnecessary and that the proposed AD could be simplified and made easier to read. United recommended requiring operators to comply with the requirements of Airbus Service Bulletin A320–32–1441, Revision 2, dated August 23, 2022, with the noted exceptions of the compliance time.

The FAA acknowledges that this is a complex AD; however, the FAA disagrees with the request. In most supersedures where there are retained requirements, the FAA structures the AD by including the retained ''old'' requirements in ''Restatement'' paragraphs and the ''new'' requirements in the ''New'' paragraphs of the AD. This allows operators that already accomplished the ''old'' requirements of an existing AD to show compliance with the corresponding retained requirements in the new AD without having to show compliance with two ADs. The FAA has not revised this AD in this regard.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022. This service information specifies procedures for inspections of the MLG sliding tubes for cracking and corrective actions (which includes replacing the MLG sliding tubes).

The FAA also reviewed Safran Service Bulletin 200–32–321, Revision 4, dated November 3, 2021; and Safran Service Bulletin 201–32–68, Revision 4, dated November 3, 2021. These documents specify the part numbers and serial numbers of the affected MLG sliding tubes. These documents are distinct since they apply to different airplane models.

This AD also requires the following service information, which the Director of the Federal Register approved for incorporation by reference as of August 1, 2019 (84 FR 30579, June 27, 2019).

- Airbus Service Bulletin A320–32–1441, Revision 01, dated December 14, 2017.
- Messier-Dowty Service Bulletin 200–32–286, Revision 3, dated October 3, 2008.
- Messier-Dowty Service Bulletin 201–32–43, Revision 3, dated October 3, 2008.
- Safran Service Bulletin 200–32–321, Revision 2, dated October 3, 2017.
- Safran Service Bulletin 201–32–68, Revision 2, dated October 3, 2017.

This AD also requires Airbus Service Bulletin A320–32–1416, including Appendix 01, dated March 10, 2014, which the Director of the Federal Register approved for incorporation by reference as of February 22, 2017 (82 FR 5362, January 18, 2017).

This AD also requires Airbus Service Bulletin A320–32A1273, Revision 02, including Appendix 01, dated May 26, 2005, which the Director of the Federal Register approved for incorporation by reference as of June 29, 2007 (72 FR 29241, May 25, 2007).

This AD also requires Airbus All Operators Telex A320–32A1273, Revision 01, dated May 6, 2004, which the Director of the Federal Register approved for incorporation by reference as of June 23, 2004 (69 FR 31867, June 8, 2004).

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

Costs of Compliance

The FAA estimates that this AD affects 1,525 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from paragraph (g) of AD 2019–12–07 (297 airplanes *).	8 work-hours × $85 per hour = $680.	Up to $45,310	Up to $45,990	Up to $13,659,030.*
Retained actions from paragraphs (h) and (j) of AD 2019–12–07.	18 work-hours × $85 per hour = $1,530.	$0	$1,530	$2,333,250.
Retained actions from paragraphs (o), (p), and (q) of AD 2019–12–07.	13 work-hours × $85 per hour = $1,105.	Up to $3,920	Up to $5,025	Up to $7,663,125.

ESTIMATED COSTS FOR REQUIRED ACTIONS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
New actions (in paragraphs (o), (p), and (q) of this AD).	9 work-hours × $85 per hour = $765.	Up to $3,920	Up to $4,685	Up to $7,144,625.

* Operators should note that, although all U.S.-registered airplanes are subject to the retained requirements of paragraph (g) of this AD, there are only 297 possible affected MLG sliding tubes in the worldwide fleet. The FAA has no way of knowing how many affected MLG sliding tubes, if any, are installed in U.S.-registered airplanes.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
7 work-hours × $85 per hour = $595	$1,960	$2,555

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–12–07, Amendment 39–19662 (84 FR 30579, June 27, 2019); and

■ b. Adding the following new AD:

2023–23–11 Airbus SAS: Amendment 39–22613; Docket No. FAA–2023–1645; Project Identifier MCAI–2022–01296–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2024.

(b) Affected ADs

This AD replaces AD 2019–12–07, Amendment 39–19662 (84 FR 30579, June 27, 2019) (AD 2019–12–07).

(c) Applicability

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

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

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

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that cracks were found in the main landing gear (MLG) sliding tubes due to certain manufacturing defects that might not be identified using the current on-wing scheduled inspections. In addition, since AD 2019–12–07 was issued, the FAA has determined that additional MLG sliding tubes are affected by the unsafe condition. The FAA is issuing this AD to address cracking in an MLG sliding tube, which could lead to failure of an MLG sliding tube resulting in MLG collapse, damage to the airplane, and injury to passengers.

(f) Compliance

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

(g) Retained Replacement, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–12–07, with no changes. Within 41 months after June 29, 2007 (the effective date of AD 2007–11–11, Amendment 39–15068 (72 FR 29241, May 25, 2007) (AD 2007–11–11)), replace all MLG shock absorbers equipped with MLG sliding tubes having serial numbers listed in Airbus All Operators Telex (AOT) A320–32A1273, Revision 01, dated May 6, 2004; or the Accomplishment Instructions of Airbus Service Bulletin A320–32A1273, Revision 02, including Appendix 01, dated May 26, 2005; with new or serviceable MLG shock absorbers equipped with MLG sliding tubes having serial numbers not listed in Airbus AOT A320–32A1273, Revision 01, dated May 6, 2004; or the Accomplishment Instructions of Airbus Service Bulletin A320–32A1273, Revision 02, including Appendix 01, dated May-26, 2005; using a method approved by the Manager, International Section, Transport

Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature. As of June 29, 2007, only Airbus Service Bulletin A320–32A1273, Revision 02, including Appendix 01, dated May 26, 2005, may be used to determine the affected MLG sliding tubes.

Note 1 to paragraph (g): Guidance on the replacement specified in paragraph (g) of this AD can be found in Airbus A318/A319/A320/A321 Aircraft Maintenance Manual Chapter 32–11–13, page block 401.

(h) Retained MLG Sliding Tube Part Number and Serial Number Identification, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2019–12–07, with no changes. Within three months after February 22, 2017 (the effective date of AD 2017–01–11, Amendment 39–18778 (82 FR 5362, January 18, 2017) (AD 2017–01–11)): Do an inspection to identify the part number and serial number of the MLG sliding tubes installed on the airplane. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the MLG sliding tubes can be conclusively determined from that review.

(i) Retained Identification of Airplanes, With an Updated Reference

This paragraph restates the requirements of paragraph (i) of AD 2019–12–07, with an updated reference. An airplane with an MSN not listed in figure 1 to paragraph (i) of this AD is not affected by the requirements of paragraph (j) of this AD, provided it can be determined that no MLG sliding tube having a part number and serial number listed in figure 2 to paragraph (i) of this AD has been installed on that airplane since first flight of the airplane.

Figure 1 to Paragraph (i) – *Affected Airplanes Listed by MSN*

Affected Airplanes Listed by MSN					
0179	0214	0296	0412	0558	0604
0607	0668	0704	0720	0726	0731
0754	0771	0799	0828	0841	0855
0909	0914	0925	0939	0986	1028
1030	1041	1070	1083	1093	1098
1108	1148	1294	1356	2713	2831

Figure 2 to Paragraph (i) – *Affected MLG Sliding Tubes*

Part Number	Serial Number
201160302	78B
201160302	1016B11
201160302	1144B
201371302	B4493
201371302	B4513
201371302	SS4359
201371302	B4530
201371302	B4517
201371302	B4568
201371302	B4498
201371302	4490B
201371302	B202-4598
201371302	B165-4623
201371302	B244-4766
201371302	B267-4794
201371302	B272-4813
201160302	1108B
201371304	B041-4871
201371304	B045-4869
201371304	B001-4781
201371304	B051-4892
201371304	B110-1952
201371304	B054-4891
201371304	B063-4921
201371304	B071-4911
201371304	B071-4917
201371304	B080-1933
201371304	B117-5010
201371304	B120-4989
201371304	B132-2023
201371304	B114-1956
201371304	B208-2009

Part Number	Serial Number
201371304	B133-1947
201371304	B154-5037
201371304	B89 4952
201371304	B129-1964
201371304	B227-2010
201371304	B170-5031
201371304	B182-5047
201371304	B239-2053
201371304	B1401-2856
201371304	B1813-3142
201371304	B116-5004
201522353	B011-149
201522350	B014-25
201522350	B019-56
201522350	B019-57
201522350	B021-69
201522350	B022-60
201522353	B03-111
201522353	B03-110
201522353	B112-317
201522353	B174-351
201522353	B179-392
201383350	4377B
201383350	4393B
201383350	B1831
201383350	B1832
201383350	SS4355B
201383350	SS4400B

(j) Retained Inspections, With an Updated Reference

This paragraph restates the inspections required by paragraph (j) of AD 2019–12–07, with an updated reference. For each MLG sliding tube identified as required by paragraph (h) of this AD, having a part number and serial number listed in figure 2 to paragraph (i) of this AD: Within 3 months after February 22, 2017 (the effective date of AD 2017–01–11) inspect affected MLG axles and brake flanges by doing a detailed visual inspection of the chromium plates for damage, and a Barkhausen noise inspection of the MLG sliding tube axles for damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1416, including Appendix 01, dated March 10, 2014. For Model A318 series airplanes, use the procedures specified for Model A319 series airplanes in Airbus Service Bulletin A320–32–1416, including Appendix 01, dated March 10, 2014.

(k) Retained Corrective Action for Paragraph (j) of This AD, With No Changes

This paragraph restates the requirements of paragraph (k) of 2019–12–07, with no changes. If, during any inspection required by paragraph (j) of this AD, any damage is detected: Before further flight, replace the MLG sliding tube with a serviceable MLG sliding tube, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1416, including Appendix 01, dated March 10, 2014. For Model A318 series airplanes, use the procedures specified for Model A319 series airplanes in Airbus Service Bulletin A320–32–1416, including Appendix 01, dated March 10, 2014.

(l) Retained Definition for Serviceable MLG Sliding Tube, With Updated References

This paragraph restates the definition for serviceable MLG sliding tube specified in paragraph (l) of AD 2019–12–07, with updated references. For the purpose of paragraph (k) of this AD, a serviceable MLG sliding tube is defined as an MLG sliding tube that meets the criterion in either paragraph (l)(1) or (2) of this AD.

(1) An MLG sliding tube having a part number and serial number not listed in figure 2 to paragraph (i) of this AD.

(2) An MLG sliding tube having a part number and serial number listed in figure 2 to paragraph (i) of this AD that has passed the inspections required by paragraph (j) of this AD.

(m) Retained Parts Installation Prohibition, With Updated References

This paragraph restates the parts installation prohibition specified in paragraph (m) of AD 2019–12–07, with updated references.

(1) For airplanes that have an MLG sliding tube installed that has a part number and serial number listed in figure 2 to paragraph (i) of this AD: After an airplane is returned to service following accomplishment of the actions required by paragraphs (h), (i), and (j) of this AD, no person may install on any airplane an MLG sliding tube having a part number and serial number listed in figure 2 to paragraph (i) of this AD, unless that MLG sliding tube has passed the inspection required by paragraph (j) of this AD.

(2) For airplanes that, as of February 22, 2017 (the effective date of AD 2017–01–11), do not have an MLG sliding tube installed that has a part number and serial number listed in figure 2 to paragraph (i) of this AD: No person may install, on any airplane, an MLG sliding tube having a part number and serial number listed in figure 2 to paragraph (i) of this AD unless that MLG sliding tube has passed the inspection required by paragraph (j) of this AD.

(n) Retained Definitions, With New Exception in Paragraph (n)(2) of This AD

This paragraph restates the definitions specified in paragraph (n) of AD 2019–12–07, with new exception in paragraph (n)(2) of this AD. For the purpose of paragraphs (o), (p), (q), (r), and (s) of this AD, the following definitions apply.

(1) Affected MLG shock absorber: An MLG shock absorber having a part number and serial number as identified in Messier-Dowty Service Bulletin 200–32–286, Revision 3, dated October 3, 2008, for Model A318, A319, and A320 series airplanes; and Messier-Dowty Service Bulletin 201–32–43, Revision 3, dated October 3, 2008, for Model A321 series airplanes.

(2) Affected MLG sliding tube: An MLG sliding tube having a part number and serial number as identified in Appendix B of Safran Service Bulletin 200–32–321, Revision 2, dated October 3, 2017, for Model A318, A319, and A320 series airplanes, or Safran Service Bulletin 201–32–68, Revision 2, dated October 3, 2017, for Model A321 series airplanes; except parts identified in paragraphs (n)(2)(i) and (ii) of this AD and those parts that, after the inspection specified (n)(2)(i) or (ii) of this AD, have been repaired, using instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

Note 2 to the introductory text of paragraph (n)(2) of this AD: The affected MLG sliding tubes identified in paragraph (n)(2) of this AD are referred to as affected ''Batch 1'' MLG sliding tubes in EASA AD 2022–0204R1, dated February 15, 2023; corrected February 17, 2023.

(i) Parts that passed an inspection as specified in Safran Service Bulletin 200–32–321 or Safran Service Bulletin 201–32–68, as applicable.

(ii) Parts that have passed an inspection as specified in Safran component maintenance manual (CMM) task 32–11–33 (K0654), Revision 71, dated September 2020, or later; CMM task 32–12–25 (K0654), Revision 61, dated March 2020, or later; CMM task 32–12–12 (K0654), Revision 57, dated September 2020, or later; or CMM task 32–12–22 (K0654), Revision 56, dated March 2020, or later; as applicable.

(3) Serviceable MLG sliding tube: An MLG sliding tube that is not affected, or an affected MLG sliding tube, that has not exceeded 10,000 flight cycles since first installation on an airplane, or an affected MLG sliding tube that, within the last 5,000 flight cycles before installation on an airplane, passed an inspection specified in Airbus Service Bulletin A320–32–1441.

(o) Retained Repetitive Inspections, With New Service Information and Extended Inspection Interval

This paragraph restates the repetitive inspections required by paragraph (o) of AD 2019–12–07, with new service information and extended inspection interval. At the compliance time specified in figure 3 to paragraph (o) of this AD, and thereafter at intervals not to exceed 10,000 flight cycles: Do a detailed inspection of each affected MLG sliding tube, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1441, Revision 01, dated December 14, 2017; or Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022. As of the effective date of this AD, only use Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022, for the actions required by this paragraph.

Figure 3 to Paragraph (o) – *Initial Compliance Time for MLG Sliding Tube Inspection*

Initial Compliance Time for MLG Sliding Tube Inspection (whichever occurs later, A B, or C)	
A	Prior to exceeding 10,000 flight cycles since first installation of an affected MLG sliding tube on an airplane.
B	Before exceeding 10,000 flight cycles since last MLG sliding tube overhaul.
C	Within 5,000 flight cycles or 25 months, whichever occurs first after August 1, 2019 (the effective date of AD 2019-12-07).

Note 3 to paragraph (o): If no reliable data regarding the number of flight cycles accumulated by the MLG sliding tube are available, operators may refer to the guidance specified in Chapter 5.2, ''Traceability,'' of Section 1, of Part 1 of the Airbus A318/A319/A320/A321 Airworthiness Limitations Section.

(p) Retained Corrective Actions for Certain Inspections Required by Paragraph (o) of This AD, With New Service Information

This paragraph restates the corrective actions required by paragraph (p) of AD

2019–12–07 for certain inspections required by paragraph (o) of this AD, with new service information. For airplanes on which any inspection required by paragraph (o) of this AD has been done before the effective date of this AD, comply with paragraph (p)(1) or (2) of this AD, as applicable. For airplanes on which any inspection required by paragraph (o) of this AD has been done on or after the effective date of this AD, comply with paragraph (y)(1) or (3) of this AD, as applicable.

(1) If any crack is detected on an MLG sliding tube, before further flight, replace that MLG sliding tube with a serviceable MLG sliding tube, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1441, Revision 01, dated December 14, 2017; or Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022.

(2) Replacement of an MLG on an airplane with an MLG having a serviceable MLG sliding tube installed is an acceptable method to comply with the requirements of paragraph (p)(1) of this AD for that airplane.

(q) Retained Part Replacement, With New Reference to New Parts Installation Limitation

This paragraph restates the parts replacement required by paragraph (q) of AD 2019–12–07, with new reference to new parts installation limitation.

(1) Within 10 years after August 1, 2019 (the effective date of AD 2019–12–07), replace each affected MLG sliding tube with an MLG sliding tube that is not affected. Installation of an MLG sliding tube that is not affected on an airplane constitutes terminating action for the repetitive inspections required by paragraph (o) of this AD for that airplane. As of the effective date of this AD, operators also must comply with the parts installation limitation specified in paragraph (aa) of this AD.

(2) Replacement of an MLG on an airplane with an MLG that does not have an affected MLG sliding tube installed is an acceptable method to comply with the requirements of paragraph (q)(1) of this AD for that airplane. As of the effective date of this AD, operators also must comply with the parts installation limitation specified in paragraph (aa) of this AD.

(r) Retained Parts Installation Limitation, With a New Exception to Paragraph (r)(1) of This AD

This paragraph restates the parts installation limitation specified in paragraph (r) of AD 2019–12–07, with a new exception to paragraph (r)(1) of this AD.

(1) As of August 1, 2019 (the effective date of AD 2019–12–07) and before the effective date of this AD, no person may install on any airplane an affected MLG shock absorber assembly containing a discrepant MLG sliding tube part number. As of the effective date of this AD, comply with the parts installation limitation specified in paragraph (aa)(1) of this AD.

(2) Do not install an affected MLG sliding tube on any airplane as specified in paragraph (r)(2)(i) or (ii) of this AD, as applicable.

(i) For an airplane with an affected MLG sliding tube installed as of August 1, 2019 (the effective date of AD 2019–12–07): After replacement of each affected MLG sliding tube as required by paragraph (q) of this AD.

(ii) For an airplane that does not have an affected MLG sliding tube installed as of August 1, 2019 (the effective date of AD 2019–12–07): As of August 1, 2019.

(s) Retained Identification of Airplanes Not Affected by Certain Requirements of This AD, With No Changes

This paragraph restates the airplanes not affected provision specified in paragraph (s) of AD 2019–12–07, with no changes. An airplane on which Airbus Modification 161202 or Modification 161346 has been installed in production is not affected by the requirements of paragraphs (g), (h), (j), (o), and (q) of this AD, provided it has been verified that no affected MLG sliding tube is installed on that airplane.

(t) Retained Credit for Previous Actions, With No Changes

This paragraph restates the credit for previous actions specified in paragraph (t) of AD 2019–12–07, with no changes.

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before June 29, 2007 (the effective date of AD 2007–11–11), using Airbus AOT A320–32A1273, Revision 01, dated May 6, 2004. This document was incorporated by reference in AD 2004–11–13, Amendment 39–13659 (69 FR 31867, June 8, 2004).

(2) This paragraph provides credit for the initial inspection and applicable corrective actions required by paragraphs (o) and (p) of this AD if those actions were performed before August 1, 2019 (the effective date of AD 2019–12–07), using the Accomplishment Instructions in Airbus Service Bulletin A320–32–1441, dated December 28, 2016.

(u) Retained Service Information Exception, With No Changes

This paragraph restates the service information exception specified in paragraph (u) of AD 2019–12–07, with no changes. The service information specified in paragraph (g) of this AD has instructions to send any cracked part to Messier-Dowty. This AD does not include such a requirement.

(v) Retained No Reporting Requirement, With New Service Information

This paragraph restates the no reporting requirement provision specified in paragraph (v) of AD 2019–12–07, with new service information. Although Airbus Service Bulletin A320–32–1441, Revision 01, dated December 14, 2017; and Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022; specify to submit certain information to the manufacturer, and specify that action as ''RC'' (required for compliance), this AD does not include that requirement.

(w) New Definitions for New Requirements of This AD

For the purpose of paragraphs (x), (y), (z), (aa), and (bb) of this AD, the following definitions apply.

(1) Affected MLG sliding tube: An MLG sliding tube having a part number identified in Safran Service Bulletin 200–32–321, Revision 4, dated November 3, 2021, for Model A318, A319, and A320 series airplanes, or Safran Service Bulletin 201–32–68, Revision 4, dated November 3, 2021, for Model A321 series airplanes; except those having a serial number identified in Appendix B of Safran Service Bulletin 200–32–321, Revision 2, dated October 3, 2017, for Model A318, A319, and A320 series airplanes, or Safran Service Bulletin 201–32–68, Revision 2, dated October 3, 2017, for Model A321 series airplanes; and except parts identified in paragraphs (w)(1)(i) and (ii) of this AD and those parts that, after the inspection specified (w)(1)(i) or (ii) of this AD, have been repaired, using instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

Note 4 to the introductory text of paragraph (w)(1) of this AD: The affected MLG sliding tubes identified in paragraph (w)(1) of this AD are referred to as affected ''Batch 2'' MLG sliding tubes in EASA AD 2022–0204R1, dated February 15, 2023; corrected February 17, 2023.

(i) Parts that passed an inspection as specified in Safran Service Bulletin 200–32–321 or Safran Service Bulletin 201–32–68, as applicable

(ii) Parts that have passed an inspection as specified in Safran CMM task 32–11–33 (K0654), Revision 71, dated September 2020, or later; CMM task 32–12–25 (K0654), Revision 61, dated March 2020, or later; CMM task 32–12–12 (K0654), Revision 57, dated September 2020, or later; or CMM task 32–12–22 (K0654), Revision 56, dated March 2020, or later; as applicable.

(2) Serviceable MLG sliding tube: Any MLG sliding tube other than those identified in paragraphs (w)(2)(i) thru (iii) of this AD.

(i) Any MLG sliding tube having a part number and serial number listed in figure 2 to paragraph (i) of this AD.

(ii) Any affected MLG sliding tube identified in paragraph (n)(2) of this AD.

(iii) Any affected MLG sliding tube identified in paragraph (w)(1) of this AD.

(x) New Inspections for Additional Affected MLG Sliding Tubes

At the compliance time specified in figure 4 to paragraph (x) of this AD, and thereafter at intervals not to exceed 10,000 flight cycles: Do a detailed inspection of each affected MLG sliding tube, as defined in paragraph (w)(1) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022.

Figure 4 to Paragraph (x) – *Initial Compliance Time for MLG Sliding Tube Inspection*

Initial Compliance Time for MLG Sliding Tube Inspection (whichever occurs later, A B, or C)	
A	Prior to exceeding 10,000 flight cycles since first installation of an affected MLG sliding tube on an airplane.
B	Before exceeding 10,000 flight cycles since last MLG sliding tube overhaul.
C	For affected MLG sliding tubes: Within 2,000 flight cycles after the effective date of this AD.

Note 5 to paragraph (x): If no reliable data regarding the number of flight cycles accumulated by the MLG sliding tube are available, operators may refer to the guidance specified in Chapter 5.2, ''Traceability,'' of Section 1, of Part 1 of the Airbus A318/A319/A320/A321 Airworthiness Limitations Section.

(y) New Corrective Actions

(1) For airplanes on which any inspection required by paragraph (o) of this AD has been done on or after the effective date of this AD: If any crack is detected on an MLG sliding tube, before further flight, replace that MLG sliding tube with a serviceable MLG sliding tube, as defined in paragraph (w)(2) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022.

(2) If, during any inspection required by paragraph (x) of this AD, any crack is detected on an MLG sliding tube: Before further flight, replace that MLG sliding tube with a serviceable MLG sliding tube, as defined in paragraph (w)(2) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022.

(3) Replacement of an MLG on an airplane with an MLG having a serviceable MLG sliding tube, as defined in paragraph (w)(2) of this AD, installed is an acceptable method to comply with the requirements of paragraph (y)(1) or (2) of this AD for that airplane.

(z) New Replacement for Additional Affected Parts

(1) Within 10 years after the effective date of this AD, replace each affected MLG sliding tube, as defined in paragraph (w)(1) of this AD, with a serviceable MLG sliding tube, as defined in paragraph (w)(2) of this AD. Replacement on an airplane of all affected MLG sliding tubes with serviceable MLG sliding tubes constitutes terminating action for the repetitive inspections required by paragraph (x) of this AD for that airplane.

(2) Replacement of an MLG on an airplane with an MLG that has a serviceable MLG sliding tube, as defined in paragraph (w)(2) of this AD, installed is an acceptable method to comply with the requirement of paragraph (z)(1) of this AD for that airplane.

(aa) New Parts Installation Limitation

(1) As of the effective date of this AD, no person may install on any airplane an MLG shock absorber assembly that contains any MLG sliding tube identified in paragraphs (aa)(i) through (iii) of this AD.

(i) Any MLG sliding tube having a part number and serial number listed in figure 2 to paragraph (i) of this AD.

(ii) Any affected MLG sliding tube identified in paragraph (n)(2) of this AD.

(iii) Any affected MLG sliding tube identified in paragraph (w)(1) of this AD.

(2) Do not install an affected MLG sliding tube identified in paragraph (w)(1) of this AD on any airplane as specified in paragraph (aa)(2)(i) or (ii) of this AD, as applicable.

(i) For an airplane with an affected MLG sliding tube installed as of the effective date of this AD: After replacement of each affected MLG sliding tube as required by paragraph (z) of this AD.

(ii) For an airplane that does not have an affected MLG sliding tube installed as of the effective date of this AD: As of the effective date of this AD.

(bb) New Identification of Airplanes Not Affected by Certain Requirements of This AD

An airplane on which Airbus Modification 161202 or Modification 161346 has been installed in production is not affected by the requirements for affected MLG sliding tubes in paragraph (x) of this AD and the requirement of paragraph (z) of this AD, provided it has been verified that no affected MLG sliding tube, as defined in paragraph (w)(2) of this AD, is installed on that airplane.

(cc) No Reporting Requirement for New Actions

Although Airbus Service Bulletin A320–32–1441, Revision 01, dated December 14, 2017; and Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022; specify to submit certain information to the manufacturer, and specify that action as ''RC'' (required for compliance), this AD does not include that requirement.

(dd) Additional AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (ee)(2) of this AD or email to: *9-AVS-AIR-730-AMOC@faa.gov*. If mailing information, also submit information by email.

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

(ii) AMOCs approved for AD 2019–12–07 are approved as AMOCs for the corresponding provisions of this AD.

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

(3) *Required for Compliance (RC):* Except as required by paragraphs (u), (v), and (dd)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(ee) Additional Information

(1) Refer to EASA AD 2022–0204R1, dated February 15, 2023; corrected February 17, 2023; for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–1645.

(2) For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3667; email: *Timothy.P.Dowling@faa.gov*.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (ff)(8) and (10) of this AD.

(ff) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 23, 2024.

(i) Airbus Service Bulletin A320–32–1441, Revision 02, dated August 23, 2022.

(ii) Safran Service Bulletin 200–32–321, Revision 4, dated November 3, 2021.

(iii) Safran Service Bulletin 201–32–68, Revision 4, dated November 3, 2021.

(4) The following service information was approved for IBR on August 1, 2019 (84 FR 30579, June 27, 2019).

(i) Airbus Service Bulletin A320–32–1441, Revision 01, dated December 14, 2017.

(ii) Messier-Dowty Service Bulletin 200–32–286, Revision 3, dated October 3, 2008.

(iii) Messier-Dowty Service Bulletin 201–32–43, Revision 3, dated October 3, 2008.

(iv) Safran Service Bulletin 200–32–321, Revision 2, dated October 3, 2017.

(v) Safran Service Bulletin 201–32–68, Revision 2, dated October 3, 2017.

(5) The following service information was approved for IBR on February 22, 2017 (82 FR 5362, January 18, 2017).

(i) Airbus Service Bulletin A320–32–1416, including Appendix 01, dated March 10, 2014.

(ii) [Reserved]

(6) The following service information was approved for IBR on June 29, 2007 (72 FR 29241, May 25, 2007).

(i) Airbus Service Bulletin A320–32A1273, Revision 02, including Appendix 01, dated May 26, 2005.

(ii) [Reserved]

(7) The following service information was approved for IBR on June 23, 2004 (69 FR 31867, June 8, 2004).

(i) Airbus All Operators Telex A320–32A1273, Revision 01, dated May 6, 2004.

(ii) [Reserved]

(8) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* website *airbus.com.*

(9) For Safran and Messier-Dowty service information identified in this AD, contact Safran Landing Systems, One Carbon Way, Walton, KY 41094; telephone (859) 525–8583; fax (859) 485–8827; internet *www.safran-landing-systems.com.*

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

(11) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Issued on November 16, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–27681 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31521; Amdt. No. 4091]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective December 19, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 19, 2023.

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

For Examination

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Availability

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

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

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

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

the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

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

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

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

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

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on December 8, 2023.

Thomas J. Nichols,

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

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 25 January 2024

Rochelle, IL, RPJ, RNAV (GPS) RWY 7, Amdt 2A
Benson, MN, KBBB, RNAV (GPS) RWY 14, Amdt 1B
Willmar, MN, BDH, ILS OR LOC RWY 13, Amdt 1
Willmar, MN, BDH, RNAV (GPS) RWY 13, Amdt 1
Willmar, MN, BDH, RNAV (GPS) RWY 31, Amdt 2
Willmar, MN, BDH, VOR RWY 31, Amdt 1
Dallas-Fort Worth, TX, KDFW, RNAV (GPS) Y RWY 13R, Amdt 4
San Antonio, TX, KSAT, ILS OR LOC RWY 4, Amdt 23
San Antonio, TX, KSAT, ILS OR LOC RWY 13R, ILS RWY 13R (CAT II), Amdt 15
San Antonio, TX, KSAT, ILS OR LOC RWY 31L, Amdt 12
San Antonio, TX, KSAT, RNAV (GPS) Y RWY 4, Amdt 4
San Antonio, TX, KSAT, RNAV (GPS) Y RWY 13R, Amdt 2
San Antonio, TX, KSAT, RNAV (GPS) Y RWY 22, Amdt 3
San Antonio, TX, KSAT, RNAV (GPS) Y RWY 31L, Amdt 2
San Antonio, TX, SAT, RNAV (RNP) X RWY 22, Orig
San Antonio, TX, KSAT, RNAV (RNP) Z RWY 4, Amdt 1
San Antonio, TX, KSAT, RNAV (RNP) Z RWY 13R, Amdt 1
San Antonio, TX, KSAT, RNAV (RNP) Z RWY 22, Amdt 2
San Antonio, TX, KSAT, RNAV (RNP) Z RWY 31L, Amdt 1

[FR Doc. 2023–27825 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31522; Amdt. No. 4092]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective December 19, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 19, 2023.

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

For Examination

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

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

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

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Availability

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

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Air Missions (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on December 8, 2023.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
25–Jan–24	IL	Chicago	Chicago Midway Intl	3/0014	10/24/23	RNAV (GPS) Z RWY 22L, Amdt 2A.
25–Jan–24	IL	Chicago	Chicago O'Hare Intl	3/0415	11/14/23	RNAV (GPS) PRM RWY 10C (CLOSE PARALLEL), Orig-A.
25–Jan–24	IL	Chicago	Chicago O'Hare Intl	3/0417	11/14/23	RNAV (GPS) RWY 10C, Amdt 1A.
25–Jan–24	GU	Guam	Guam Intl	3/1233	10/17/23	RNAV (RNP) Z RWY 6R, Orig-C.

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
25–Jan–24	GU	Guam	Guam Intl	3/1623	10/17/23	RNAV (RNP) Z RWY 6L, Orig-D.
25–Jan–24	TX	Weslaco	Mid Valley	3/1772	10/26/23	VOR–A, Orig-B.
25–Jan–24	VA	Roanoke	Roanoke/Blacksburg Rgnl (Woodrum Fld).	3/3252	11/20/23	LDA Z RWY 6, Orig.
25–Jan–24	VA	Roanoke	Roanoke/Blacksburg Rgnl (Woodrum Fld).	3/3255	11/20/23	RNAV (RNP) Z RWY 24, Orig.
25–Jan–24	VA	Roanoke	Roanoke/Blacksburg Rgnl (Woodrum Fld).	3/3639	11/20/23	RNAV (RNP) Z RWY 6, Orig.
25–Jan–24	SC	Summerville	Summerville	3/3863	10/12/23	RNAV (GPS) RWY 24, Orig-C.
25–Jan–24	CA	Mountain View	Moffett Federal Airfield ..	3/4042	11/9/23	ILS OR LOC RWY 32R, Amdt 2.
25–Jan–24	FL	Fort Lauderdale	Fort Lauderdale/Hollywood Intl.	3/4077	11/2/23	RNAV (GPS) Y RWY 28R, Amdt 5.
25–Jan–24	SD	Aberdeen	Aberdeen Rgnl	3/4485	11/21/23	RNAV (GPS) RWY 35, Amdt 1.
25–Jan–24	SD	Aberdeen	Aberdeen Rgnl	3/4487	11/21/23	RNAV (GPS) RWY 31, Orig-B.
25–Jan–24	KS	Norton	Norton Muni	3/5231	9/29/23	RNAV (GPS) RWY 16, Amdt 1B.
25–Jan–24	PA	Harrisburg	Harrisburg Intl	3/5232	10/23/23	RNAV (GPS) RWY 31, Amdt 1A.
25–Jan–24	MO	Higginsville	Higginsville Industrial Muni.	3/5990	10/13/23	RNAV (GPS) RWY 34, Amdt 1.
25–Jan–24	MO	Higginsville	Higginsville Industrial Muni.	3/5993	10/13/23	RNAV (GPS) RWY 16, Amdt 1.
25–Jan–24	FL	Panama City	Northwest Florida Beaches Intl.	3/6411	10/27/23	ILS OR LOC RWY 16, ILS RWY 16 (SA CAT I), ILS RWY 16 (SA CAT II), Amdt 3A.
25–Jan–24	MI	Lansing	Capital Region Intl	3/7469	10/18/23	ILS OR LOC RWY 28L, Amdt 28A.
25–Jan–24	FL	Orlando	Orlando Intl	3/8059	10/5/23	RNAV (GPS) RWY 17R, Orig-D.
25–Jan–24	FL	Orlando	Orlando Intl	3/8060	10/5/23	RNAV (GPS) RWY 35L, Amdt 1A.
25–Jan–24	AK	Cordova	Merle K (Mudhole) Smith.	3/8167	11/6/23	RNAV (GPS)–B, Amdt 2B.
25–Jan–24	FL	West Palm Beach	Palm Beach Intl	3/8298	10/20/23	RNAV (GPS) Y RWY 14, Amdt 4.
25–Jan–24	CA	Mountain View	Moffett Federal Airfield ..	3/8470	11/9/23	RNAV (GPS) RWY 32L, Amdt 1.
25–Jan–24	NY	Malone	Malone-Dufort	3/9901	10/5/23	RNAV (GPS) RWY 23, Orig-D.
25–Jan–24	KY	Henderson	Henderson City-County	3/9903	10/6/23	RNAV (GPS) RWY 9, Amdt 1A.

[FR Doc. 2023–27826 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1203]

14 CFR Chapter I

Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land; Correction

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

ACTION: Notification of final policy; correction.

SUMMARY: The Federal Aviation Administration published a document in the **Federal Register** of December 8, 2023, concerning its Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land. The document contained an incorrect FAA Docket Number.

DATES: This correction is effective January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Michael Helvey, Airport Compliance and Management Analysis, ACO–1, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4629.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 8, 2023, in FR Doc. 2023–27017, on page 85474, in the second column, correct the ''Docket No.'' to read:

[Docket No. FAA–2022–1203]

Dated: December 12, 2023.

Michael Helvey,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2023–27829 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 231213–0301]

RIN 0694–AJ50

Removals From the Unverified List

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

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by removing four persons, all under the destination of People's Republic of China (China), from the UVL because BIS was able to verify their bona fides.

DATES: *This rule is effective:* December 15, 2023.

FOR FURTHER INFORMATION CONTACT: Kevin J. Kurland, Deputy Assistant Secretary for Export Enforcement, Phone: (202) 482–4255 or by email at *UVLRequest@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The UVL, found in supplement no. 6 to part 744 of the EAR (15 CFR parts 730–774), contains the names and addresses of foreign persons who are or have been parties to a transaction, as described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR. These foreign persons are added to the UVL because BIS or federal officials acting on BIS's behalf were unable to verify their *bona fides* (*i.e.,* legitimacy and reliability relating to the end-use and end user of items subject to the EAR) through an end-use check. These checks, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for reasons outside the U.S. Government's control.

There are any number of reasons why these checks cannot be completed to the satisfaction of the U.S. Government. Section 744.15(c)(1) of the EAR provides illustrative examples of those circumstances, including reasons unrelated to the cooperation of the foreign party subject to the end-use check. Such examples include: (i) During the conduct of an end-use check, the subject of the check is unable to demonstrate the disposition of items subject to the EAR; (ii) The existence or authenticity of the subject of an end-use check cannot be verified (*e.g.,* the subject of the check cannot be located or contacted); (iii) Lack of cooperation by the host government authority prevents an end-use check from being conducted.

BIS's inability to confirm the *bona fides* of foreign persons subject to end-use checks raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR; it also indicates a risk that such items may be diverted to prohibited end uses and/or end users. Under such circumstances, there may not be sufficient information to add the foreign person at issue to the Entity List under § 744.11 of the EAR. Therefore, BIS may add the foreign person to the UVL.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and maintain a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement. Finally, pursuant to § 758.1(b)(8), Electronic Export Information (EEI) must be filed in the Automated Export System (AES) for all exports of tangible items subject to the EAR where any party to the transaction, as described in § 748.5(d) through (f), is listed on the UVL.

Requests for the removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of a UVL entry will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of their *bona fides*.

Removals From the UVL

This final rule removes four persons from the UVL because BIS was able to verify their *bona fides*. This rule removes Chengde Oscillator Electronic Technology Co., China National Erzhong Group, Ningbo III Lasers Technology Co., Ltd., and Xinjiang East Hope New Energy Company Ltd., all under the destination of China. BIS is removing these four persons pursuant to § 744.15(c)(2) of the EAR.

Rulemaking Requirements

Executive Order Requirements

Executive Orders 13563 and 12866 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, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has not been designated a ''significant regulatory action'' under Executive Order 12866.

This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

Paperwork Reduction Act Requirements

Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

The UVL additions contain collections of information approved by OMB under the following control numbers:

- OMB Control Number 0694–0088—Simple Network Application Process and Multipurpose Application Form
- OMB Control Number 0694–0122—Miscellaneous Licensing Responsibilities and Enforcement
- OMB Control Number 0694–0134—Entity List and Unverified List Requests,
- OMB Control Number 0694–0137—License Exemptions and Exclusions.

BIS believes that the overall increases in burdens and costs will be minimal and will fall within the already approved amounts for these existing collections. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

Administrative Procedure Act and Regulatory Flexibility Act Requirements

Pursuant to Section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking and opportunity for public participation.

Further, no other law requires notice of proposed rulemaking or opportunity for public comment for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 744—END-USE AND END–USER CONTROLS

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

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994

Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of November 8, 2022, 87 FR 68015, 3 CFR, 2022 Comp., p. 563; Notice of September 7, 2023, 88 FR 62439 (September 11, 2023).

■ 2. Supplement No. 6 to Part 744 is amended under CHINA, PEOPLE'S REPUBLIC OF, by removing the entries for ''Chengde Oscillator Electronic Technology Co.'', ''China National Erzhong Group'', ''Ningbo III Lasers Technology Co., Ltd.'', and ''Xinjiang East Hope New Energy Company Ltd''.

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–27932 Filed 12–15–23; 11:15 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2020–F–0151]

Food Additives Permitted in Feed and Drinking Water of Animals; Calcium Formate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, we, or the Agency) is amending the regulations for food additives permitted in feed and drinking water of animals to provide for the safe use of calcium formate as a feed acidifying agent, to lower the pH, in complete swine and poultry feeds at levels not to exceed 1.2 percent of the complete feed. This action is in response to a food additive petition filed by LANXESS Corp.

DATES: This rule is effective December 19, 2023. See section V for further information on the filing of objections. Either electronic or written objections and requests for a hearing on the final rule must be submitted by January 18, 2024.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections 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 January 18, 2024. Objections 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 objections in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting objections. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection 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 objection, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection 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 objections submitted to the Dockets Management Staff, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–F–0151 for ''Food Additives Permitted in Feed and Drinking Water of Animals; Calcium Formate.'' Received objections, 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 an objection with confidential information that you do not wish to be made publicly available, submit your objections only as a written/paper submission. You should submit two copies in 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 objections. 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 objections and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Wasima Wahid, Center for Veterinary Medicine (HFV–221), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–5857, *wasima.wahid@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In a document published in the **Federal Register** of February 11, 2020 (85 FR 7682), FDA announced that we had filed a food additive petition (animal use) (FAP 2310) submitted by LANXESS Corp., 111 RIDC Park West Dr., Pittsburgh, PA 15275. The petition proposed that the regulations for food additives permitted in feed and drinking water of animals be amended to provide for the safe use of calcium formate as a feed acidifying agent, to lower the pH, in complete feeds for swine or poultry.

II. Conclusion

FDA concludes that the data establish the safety and utility of calcium formate as a feed acidifying agent, to lower the pH, in complete feeds for swine or poultry, and that the food additive regulations should be amended as set forth in this document.

III. Public Disclosure

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and documents we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 571.1(h), we will delete from the documents any materials that are not available for public disclosure.

IV. Analysis of Environmental Impact

We have determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Objections and Hearing Requests

If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

■ 1. The authority citation for part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. Add § 573.230 to subpart B to read as follows:

§ 573.230 Calcium formate.

The food additive calcium formate may be safely used in the manufacture of complete swine and poultry feeds in accordance with the following prescribed conditions:

(a) The additive is manufactured by the reaction of butyraldehyde, formaldehyde, calcium hydroxide, and formic acid in water followed by purification and dried to produce a powder consisting of not less than 99.0 percent calcium formate (CAS 544–17–2). The additive meets the following specifications:

(1) The additive consists of minimum 30.5 percent calcium and minimum 68.5 percent formate.

(2) Trimethylolpropane (TMP) not to exceed 125 parts per million.

(b) The additive is used or intended for use as a feed acidifying agent, to lower the pH, in complete swine or poultry feeds at levels not to exceed 1.2 percent of the complete feed.

(c) To ensure safe use of the additive, formic acid and formate salts from all added sources cannot exceed 1.2 percent of complete feed when multiple sources of formic acid and its salts are used in combination.

(d) To ensure safe use of the additive, in addition to the other information required by the Federal Food, Drug, and Cosmetic Act, the label and labeling shall contain:

(1) The name of the additive.

(2) Adequate directions for use including a statement that calcium formate must be uniformly applied and thoroughly mixed into complete feeds and that the complete feeds so treated shall be labeled as containing calcium formate.

(3) Cautions for use including this statement: Caution: Follow label directions. Formic acid and formate salts from all added sources cannot exceed 1.2 percent of complete feed when multiple sources of formic acid and its salts are used in combination.

(e) To ensure safe use of the additive, in addition to the other information required by the act and paragraph (d) of this section, the label and labeling shall contain:

(1) Appropriate warnings and safety precautions concerning calcium formate.

(2) Statements identifying calcium formate as a possible severe irritant.

(3) Information about emergency aid in case of accidental exposure as follows.

(i) Statements reflecting requirements of applicable sections of the Superfund Amendments and Reauthorization Act, and the Occupational Safety and Health Administration's (OSHA) human safety guidance regulations.

(ii) Contact address and telephone number for reporting adverse reactions or to request a copy of the Safety Data Sheet (SDS).

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27857 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Part 181

[Public Notice: 12266]

RIN 1400–AF63

Publication, Coordination, and Reporting of International Agreements: Amendments; Correction

AGENCY: Department of State.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of State (''Department'') finalizes regulations regarding the publication, coordination, and reporting of international agreements, which were published for comment on October 2. No comments were received. In addition, the Department is amending one of the provisions to remove misleading text in the description of the criteria with respect to qualifying non-binding instruments in the amended rule.

DATES: This rule is effective on December 19, 2023.

FOR FURTHER INFORMATION CONTACT: Michael Mattler, Assistant Legal Adviser for Treaty Affairs, Office of the Legal Adviser, Department of State, Washington, DC 20520, (202) 647–1345, or at *treatyoffice@state.gov.*

SUPPLEMENTARY INFORMATION: On October 2, 2023, the Department published a rulemaking (the ''final rule'') that amended 22 CFR part 181 to implement section 5947 of the National Defense Authorization Act for Fiscal Year (FY) 2023 (Pub. L. 117–263) (''the NDAA''). Section 5947 amended 1 U.S.C. 112a and 1 U.S.C. 112b, known as the Case-Zablocki Act, regarding the publication, coordination, and reporting

to Congress of international agreements. For further background, see the final rule at 88 FR 67643.

The Department provided 30 days for public comment. No comments were received.

Amendment to § 181.4

The Department is removing the phrase ''no single criterion or factor by itself is determinative'' from § 181.4(b)(3)(i). The words were included in error, and this change is intended to avoid the regulation being interpreted to mean that a non-binding instrument could only constitute a qualifying non-binding instrument if multiple factors among those listed in (b)(3)(i)(A) through (G) weighed in favor of its significance.

Regulatory Analysis

Administrative Procedures Act

As with the original rulemaking, the Department is issuing this rule as a final rule, asserting the ''good cause'' exemption to the Administrative Procedure Act (5 U.S.C. 553(b)). We are past the deadline provided by Congress to implement this rule, also past the effective date of the statute itself. See the final rule for more information.

Regulatory Flexibility Act/Executive Order 13272: Small Business

This rulemaking is hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Congressional Review Act

This rulemaking does not constitute a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking.

The Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure nor would it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132: Federalism and Executive Order 13175, Impact on Tribes

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of national government. Nor will the regulations have federalism implications warranting the application of Executive Orders 12372 and 13132. This rule will not have tribal implications, will not impose costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Executive Orders 12866 and 14094; 13563: Regulatory Review

This rule has been drafted in accordance with the principles of Executive Order 12866, as amended by Executive Order 14094, and 13563. The rulemaking is mandated by a Congressional statute; therefore, Congress determined that the benefits of this rulemaking outweigh the costs. This rule has been determined to be a significant rulemaking under Executive Order 12866.

Executive Order 12988: Civil Justice Reform

This rule has been reviewed in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulation. This rule contains no new collection of information requirements.

List of Subjects in 22 CFR Part 181

Treaties.

For the reasons set forth above, the State Department amends 22 CFR part 181 as follows:

PART 181—COORDINATION, REPORTING AND PUBLICATION OF INTERNATIONAL AGREEMENTS

■ 1. The authority section for part 181 continues to read as follows:

Authority: 1 U.S.C. 112a, 112b; and 22 U.S.C. 2651a.

■ 2. In § 181.43, revise paragraph (b)(3)(i) introductory text to read as follows:

§ 181.4 Criteria with respect to qualifying non-binding instruments.

* * * * *

(b) * * *

(3) * * *

(i) Consistent with 1 U.S.C. 112b(k)(5)(A)(ii)(I), and except for a non-binding instrument referred to in 1 U.S.C. 112b(k)(5)(B), a non-binding instrument that could reasonably be expected to have a significant impact on the foreign policy of the United States, and that meets the other elements set out in 1 U.S.C. 112b(k)(5), is a qualifying non-binding instrument within the meaning of the Act. The degree of significance of any particular instrument requires an objective wholistic assessment. In deciding whether a particular instrument meets the significance standard, the entire context of the transaction, including the factors set out below and the expectations and intent of the participants, must be taken into account. Factors that may be relevant in determining whether a non-binding instrument could reasonably be expected to have a significant impact on the foreign policy of the United States include whether, and to what extent, the instrument:

* * * * *

Joshua L. Dorosin,

Deputy Legal Adviser, Department of State.

[FR Doc. 2023–27837 Filed 12–18–23; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 470, 635 and 655

[FHWA Docket No. FHWA–2020–0001]

RIN 2125–AF85

National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Revision

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) (also referred to as ''the Manual'') is incorporated by reference within our regulations, approved by FHWA, and recognized as the national standard for traffic control devices used on all public roads, bikeways, or private roads open to public travel. The purpose of this final rule is to revise Standard, Guidance, Option provisions, and supporting information, relating to the traffic control devices in all parts of the MUTCD to improve safety for all road users by promoting uniformity, and to incorporate new provisions that reflect

technological advances in traffic control device application. The MUTCD, with these changes incorporated, is being designated as the 11th Edition of the MUTCD.

DATES: Effective on January 18, 2024. The incorporation by reference of the publication listed in the rule is approved by the Director of the Office of the Federal Register as of January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Sylvester, Office of Transportation Operations, (202) 366–2161, *Kevin.Sylvester@dot.gov,* or Mr. William Winne, Office of the Chief Counsel, (202) 366–1397, *William.Winne@dot.gov,* Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document, the notice of proposed amendments (NPA), and all comments received may be viewed online through the Federal eRulemaking portal at: *www.regulations.gov.* Electronic submission and retrieval help and guidelines are available under the help section of the website. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's homepage at: *www.federalregister.gov* and the Government Printing Office's web page at: *www.GovInfo.gov.*

Executive Summary

The Department of Transportation is committed to securing a future without serious roadway injuries or fatalities. Our approach is guided by our National Roadway Safety Strategy (NRSS) [1] which was released in January 2022 and adopts the Safe System Approach as the guiding paradigm to address roadway safety. One of the 5 objectives of the Safe System Approach is Safer Roads. There are many factors that go into making a road safe, including the surrounding land use, the geometric design of the roadway, and the uniform and consistent application of traffic control devices. The MUTCD is a set of technical criteria for the latter, and does not preclude action that State, local, or tribal decision makers might take on the first two.

The MUTCD is part of an overall DOT strategy that includes process and outreach changes. This document will be supplemented by a process improvement to increase the frequency of MUTCD updates to a 4-year cycle, seek a wider range of stakeholders to review and develop recommendations, and include educational components that help practitioners understand the use and applicability of the document.

The FHWA has developed a Proven Safety Countermeasures initiative [2] (PSCi) which identifies countermeasures and strategies effective in reducing roadway fatalities and serious injuries, and strongly encourages transportation agencies to consider implementing tools to improve safety.

This rulemaking satisfies a Congressional requirement that was part of the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law.

I. Intended Use

The MUTCD is developed and organized for the purpose of establishing national standards for traffic control devices on any roadway, bikeway, or shared-use path that is open to public travel. It is not intended to inform State or local policy on the design and character of communities or the geometric design of roadways, to prioritize a travel mode, or to influence land use or access by any mode of travel. Relevant local authorities and roadway owners determine land use, such as transit-oriented development, and roadway design to safely and conveniently prioritize walking, bicycling, public transit, motor-vehicle travel, or a combination of modes. The DOT is committed to securing a future without serious roadway injuries or fatalities and released the NRSS which adopts a Safe System Approach as the guiding paradigm to address roadway safety. As described in the NRSS, roadway design strongly influences how people use roadways. The environment around the roadway system, including land use and the intersections of highways, roads, and streets with other transportation modes such as rail and transit, also shapes the safety risks borne by the traveling public. The FHWA has developed the PSCi which identifies countermeasures and strategies effective in reducing roadway fatalities and serious injuries, and strongly encourages transportation agencies to consider implementing tools to improve safety. Following local determination of a roadway design, the MUTCD governs how traffic control devices communicate the design intent to the road user to safely and efficiently navigate the roadway system.

II. Purpose of the Regulatory Action

This final rule is intended to improve safety, with a focus on vulnerable road users, streamline processes, and reduce burdens on State and local agencies by including many of the successful devices or applications that have resulted from nearly 200 official experiments that FHWA has approved, including pedestrian safety enhancements such as the rectangular rapid-flashing beacon, proven treatments that help bicyclists navigate the street more easily such as bicycle signal faces, congestion-reduction strategies such as variable speed limits for speed harmonization, and devices for traffic management applications such as dynamic lane control and shoulder use. In addition, this final rule adopts new signing to direct electric vehicle users to charging stations and the inclusion of numerous treatments for bicycle and transit lanes.

The rule updates the technical provisions to reflect advances in technologies and safety and operational practices, incorporate recent trends and innovations, and set the stage for automated driving systems as those systems continue to take shape. This final rule promotes uniformity and incorporates technological advances in traffic control device design and application, and will ultimately improve and promote the safety, inclusion, and mobility of all road users and efficient utilization of roads that are open to public travel.

With this 11th Edition of the MUTCD, FHWA addresses any existing provisions that might have contributed to situations that inhibit or contravene the purpose of a nationwide standard for traffic control devices. The provisions of the MUTCD establish this national standard by adopting only those devices that, by clearly communicating the roadway design and operational intent to the road user, promote the safety, inclusion, and mobility of all road users and the efficient utilization of the highways and streets through an uninterrupted, uniform system of signs, signals, and markings as road users travel within and between jurisdictions. Uniformity and consistency in message, placement, and operation of traffic control devices have been shown to accommodate the expectancy of the road user, resulting in a more predictable response, contributing to improved road user safety overall. The system of uniform

[1] Information on the NRSS can be viewed at the following Web address: *https://www.transportation.gov/NRSS.*

[2] Information on the PSCi can be viewed at the following Web address: *https://highways.dot.gov/safety/proven-safety-countermeasures.*

traffic control devices works in concert with the natural tendencies of the road user in the various high-judgment situations that the road user will encounter.

Safety

Uniform traffic control devices are critical to ensuring safety across the roadway network, and are part of the Safe System Approach,[3] adopted by DOT. The Safe System Approach addresses every aspect of reducing crash risks, including safer road users, safer speeds, safer roads, safer vehicles, and safer post-crash care. Traffic control devices influence three of these factors by guiding roadway users toward uniform and predictable behavior; directing roadway users on safe operating speeds; and, in conjunction with roadway infrastructure, separating users in time and space. This approach can prevent crashes and reduce the kinetic energy transfer that can result in human injury or death.

In addition, a focus on the safe mobility of vulnerable road users[4] is prominent throughout this new edition and is expected to be a focus in future rulemaking, anticipated to be issued on a quadrennial cycle. Consideration of roadway context as an important factor has informed many of the new provisions wherever practicable. In particular, those applications in which differing roadway environments and road user needs are critical to the decisions on the types of traffic control devices under consideration have been emphasized or expanded upon.

Scope and Applicability

Notwithstanding this focus, it is important for users of the MUTCD to be mindful that its scope is limited to traffic control devices: the signs, signals, and markings, and how they appear, operate, and are used. While its provisions are founded in safety, the MUTCD is not a roadway design manual, nor is it a comprehensive safety manual. The geometric and other design features of the roadway, such as curbs, barriers, intersection corner radii, and number and width of lanes, have a significant influence on safety and, in many cases, road user compliance with the traffic control devices selected. Likewise, it is not a policy or directive on how jurisdictions are to use their roadways to provide for efficient mobility of people and goods through their communities, or which travel modes are to have priority in the overall roadway network. Indeed, nothing in the MUTCD restricts a community from designing walkable, transit-oriented roadways or high-speed highways as that community determines appropriate to serve its needs. Rather, the MUTCD is about directly communicating with the road user, in an effective manner, about how the roadway is intended to be used in the context and constraints of its physical space, design features, and surrounding environment.

With its human-centered foundation, the MUTCD has always been about the road user; establishing uniformity in message to accommodate expectancy and behavior, informed by the body of knowledge based on decades of human factors research, to provide for the safe and efficient mobility. Reflecting our changing environment, that research basis continues to expand and evolve as new trends and applications emerge. While strictly a technical manual, the primacy of the road user is at the heart of the MUTCD's many technical provisions. The changes adopted in the new edition seek to emphasize the importance of the road users—each with varying capabilities and limitations, traveling by different modes—in the design and application of traffic control devices.

Finally, with this final rule, FHWA fulfills certain statutory requirements of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA), which explicitly calls for a new edition of the MUTCD to be issued in a timely manner and be updated on a quadrennial cycle, as well as a number of specific items related to the MUTCD.

III. Summary of the Major Provisions of the Regulatory Action in Question

Key items in this final rule include the following:

Incorporation of provisional traffic control devices currently under Interim Approval, including pedestrian-actuated rectangular rapid-flashing beacons at uncontrolled marked crosswalks, green-colored pavement for bicycle lanes, red-colored pavement for transit lanes, and a new traffic signal warrant based on crash experience;

Improvements to safety and accessibility for pedestrians, including the location of pushbuttons at signalized crosswalks, crosswalk marking patterns, and accommodations in work zones;

Expanded traffic control devices to improve safety and operation for bicyclists, including intersection bicycle boxes, two-stage turn boxes, bicycle traffic signal faces, and a new design for the U.S. Bicycle Route sign;

Additional signing options for direction to electric vehicle charging services;

Considerations for agencies to prepare roadways for automated vehicle technologies and to support the safe deployment of automated driving systems;

Clarifications on patented and proprietary traffic control devices to foster and promote innovation; and

Safety and operational improvements, including revised procedures for the posting of speed limits, new criteria for warning signs for horizontal alignment changes, and new application of traffic control devices for part-time travel on shoulders to manage congestion.

In addition, this regulatory action amends the following:

23 CFR part 470, subpart A, Appendix C;
23 CFR 635.309(o);
23 CFR 655.603(b)(3); and
23 CFR 655.603, Appendix to Subpart F

IV. Costs and Benefits

The FHWA has estimated the costs and evaluated potential benefits of this rulemaking and believes the rulemaking is being proposed in a manner that fulfills the requirements under 23 U.S.C. 109(d) and 23 CFR part 655, while also providing flexibility for State and local agencies. The estimated national costs are documented in the economic analysis report titled, ''Assessment of Economic Impacts of Amendment to the Manual on Uniform Traffic Control Devices (11th Edition); Final Rule Economic Impact Assessment,'' which is available on the docket.

The final rule results in clarification of language and organization of the MUTCD, increased flexibility and alternatives for agencies, relaxation of certain Standard provisions to Guidance, and the introduction of new traffic devices. For the purposes of this analysis, where revisions improve the clarity of existing content, those revisions have been considered non-substantive. All other revisions are considered substantive as they materially change the requirements of the MUTCD.

The Economic Impact Analysis provides estimates of general administrative costs associated with incorporating and executing the MUTCD including training costs.

[3] The Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA), defined the safe system approach as ''a roadway design that emphasizes minimizing the risk of injury or fatality to road users; and that (i) takes into consideration the possibility and likelihood of human error; (ii) accommodates human injury tolerance by taking into consideration likely accident types, resulting impact forces, and the ability of the human body to withstand impact forces; and (iii) takes into consideration vulnerable road users.''

[4] Title 23 of the United States Code (23 U.S.C.) section 148(a), Highway Safety Improvement Program, states a ''vulnerable road user'' means a non-motorist.

Second, the incremental costs associated with revisions to provisions of the MUTCD are calculated.

This final rule provides quantitative estimates of the expected compliance costs associated with the proposed substantive revisions. There are 138 substantive revisions with minimal or no impact. These revisions materially change the MUTCD requirements but have no cost impacts or minimal cost impacts.

The remaining nine substantive revisions have quantifiable economic impacts. The costs of the revision could be estimated fully for only five of these, and partially for one other. Across these six substantive revisions for which costs can be quantified, along with the administrative costs, the total estimated cost measured in 2020 dollars is $59.7 million when discounted to 2020 at 7 percent. These costs are estimated as the sum of the effort required for adoption and training of the MUTCD, the price of the traffic control device and the removal and installation costs of the device, applied to the current and future deployment rate of the traffic control device, considering the compliance date for the provision relating to the device. The revisions differ in their compliance dates, the date after which the traffic control devices must comply with the MUTCD revisions. The cost estimates reflect whether the revision includes a compliance date. For those changes for which a compliance date is not specified, the analysis assumes that agencies would make traffic control devices comply with the revisions at the end of the service life of a device while, for those with a compliance date, the analysis assumes that agencies would bring non-compliant traffic control devices into compliance proportionally each year until the compliance date. The analysis cannot account for agencies that might decide to set their own compliance dates for those items that do not have a compliance date in the national MUTCD. The analysis period is 10 years starting with an implementation date of 2023 and extending through 2032. The costs of four substantive revisions could not be estimated due to lack of information, but all are expected to have net benefits based on per-unit or per-mile costs and benefits of the proposed revision. Costs for each substantive revision with appreciable impacts are estimated based on the cost of the traffic control device, the removal and installation costs of the device, the current and future deployment of the traffic control device, and the compliance date if applicable.

The benefits of the revisions include operational and safety benefits. Operational benefits include the capacity of the traffic control device to convey necessary information to road users, accessibility benefits for pedestrians with vision disabilities, and mobility impacts from efficient operation. In some cases, the safety benefits are measured by the revision's impact on crash surrogate measures because of the limitations of analyzing the direct impact of traffic control devices on crash rates. However, in most cases the impact on crash surrogate measures does not provide an expressed crash reduction capability of the traffic control. Therefore, the benefits of these revisions could not be quantified.

For each substantive revision with measurable costs, FHWA expects that the benefits will exceed costs. Based on the qualitative and quantitative information presented, FHWA expects that, in general, the potential benefits of the rulemaking will exceed its costs.

Background

On December 14, 2020, at 85 FR 80898, FHWA published a Notice of Proposed Amendments (NPA) proposing revisions to the MUTCD. Those changes were proposed to be designated as the next edition of the MUTCD. Interested persons were invited to submit comments to FHWA Docket No. FHWA–2020–0001.

After the close of the public comment period, the President signed into law the BIL, enacted as the IIJA, (Pub. L. 117–58, Nov. 15, 2021). Section 11129 of BIL amended 23 U.S.C. 109(d) to require that a new edition of the MUTCD be issued not later than 18 months after the enactment of BIL, and every 4 years thereafter; and to articulate more explicitly the role of traffic control devices, which is to ''promote the safety, inclusion, and mobility of all users and efficient utilization of the highways.''

Section 11135 of BIL required that the MUTCD be updated, to the greatest extent practicable, to provide for the protection of vulnerable road users; the safe testing of automated vehicle technology and safe integration of automated vehicles onto public streets; appropriate use of changeable message signs (CMS) to enhance safety; the minimum retroreflectivity of traffic control devices, including pavement markings; and any additional recommendations made by the National Committee on Uniform Traffic Control Devices (NCUTCD).

In this final rule, FHWA takes steps to fulfill certain requirements of BIL. For example, the adoption of rectangular rapid-flashing beacons and bicycle signal faces will improve the safety of vulnerable road users; a completely new part of the Manual is dedicated to traffic control devices to accommodate driving automation systems; the provisions on CMS are greatly expanded to address traffic safety messages with more clarification and detail; and FHWA published a final rule [5] on August 5, 2022, at 87 FR 47921, establishing minimum retroreflectivity levels for pavement markings.

Based on the comments received and its own experience, FHWA is issuing a final rule and is designating the MUTCD, with these changes incorporated, as the 11th Edition of the MUTCD.

The text of the 11th Edition of the MUTCD, with these final rule changes incorporated, and documents showing the adopted changes from the 2009 Edition, are available for inspection and copying, as prescribed in 49 CFR part 7, at the FHWA Office of Transportation Operations (HOTO–1), 1200 New Jersey Avenue SE, Washington, DC 20590. Furthermore, the text of the 11th Edition of the MUTCD, with these final rule changes incorporated, and documents showing the adopted changes from the 2009 Edition, are available on the FHWA's MUTCD internet site *http://mutcd.fhwa.dot.gov.* The previous edition of the MUTCD, the 2009 MUTCD with Revisions 1, 2, and 3 incorporated, is also available on this internet site for reference. The 11th Edition supersedes all previous editions and revisions of the MUTCD.

Summary of Comments

The FHWA received more than 17,000 submissions to the docket, containing over 100,000 individual comments on the MUTCD in general or on one or more parts, chapters, sections, or paragraphs contained in the MUTCD. The State departments of transportation (State DOT), city and county government agencies, Federal Government agencies, NCUTCD, consulting firms, private industry, associations, other organizations, and individual private citizens submitted comments. The FHWA has reviewed and analyzed all comments received. The significant items and summaries of the associated public comments, and FHWA's analyses and determinations, are discussed below. In addition to the following discussion, Preamble Tables that show the proposed items in the NPA and the dispositions in the final rule for each are available on the

[5] Designated as Revision 3 of the 2009 Edition of the MUTCD.

MUTCD website and in the docket for this rulemaking.

Discussion of Amendments to the MUTCD

The following represents a summary of significant topics of interest identified based on comments received from State DOTs, local agencies, associations, and citizens regarding the NPA. These items are summarized by corresponding parts of the MUTCD.

Part 1. General

Compliance Dates

Compliance dates for four provisions are adopted in this final rule. The compliance dates are summarized in Table 1B–1 of the MUTCD and are described in detail herein. In addition, one compliance date from a previous rulemaking [6] remains in effect.

In Section 2B.64, Paragraph 14 requires that an additional Weight Limit sign, with an advisory distance or directional legend, shall be located in advance of the applicable section of highway or structure so that prohibited vehicles can detour or turn around prior to the limit zone. The NPA proposed changes to give operators of vehicles affected by weight limit restrictions adequate information about the distance to the restricted area so that they can properly change their route and to minimize potential damage to highway infrastructure as a result of an overweight vehicle; however, there was no compliance date proposed for these changes. Based on comments and to provide further clarity in this final rule, the two separate paragraphs from the 2009 edition are retained but the proposed elevation of the Guidance to a Standard is adopted with added text to clarify that the first Standard relates to posting at the applicable section of highway and structure, rather than in advance. The FHWA adds a compliance date of 5 years for the Standard in Paragraph 14 requiring the posting of the additional Weight Limit sign with the advisory distance or directional legend. The FHWA believes a 5-year compliance date is appropriate based on the critical nature of the infrastructure in that it allows agencies up to 2 years to adopt the MUTCD and 3 additional years for agencies to program, fund, and install any devices necessary

In Section 2C.25, based on comments from the NTSB, the Standard which redesignated the W12–2 sign as an advance sign is adopted with revised language to warn road users of vertical clearances less than 14 feet 6 inches, or vertical clearances less than 12 inches above the statutory maximum vehicle height, whichever is greater. All States have statutory maximum vehicle heights of 13 feet 6 inches or greater, thus making the 12 inches above the statutory maximum vehicle height the prevailing criterion. However, in the interest of clarity and safety, the specific language for clearances less than 14 feet 6 inches is added to make it abundantly clear that signing for lesser vertical clearances is required. Further, the use of the existing W12–2a and new W12–2b signs is adopted as an Option to supplement, rather than be used in lieu of, the advance warning sign. The FHWA also adopts the Guidance as proposed in Paragraph 8 which recommends that for an arch or other structure under which the clearance varies greatly, two or more Low Clearance Overhead (W12–2a or 12–2b) signs should be installed on the structure itself to indicate the portions of the roadway over which the low clearance applies. This change was based on recommendations from NTSB H–14–11 [7] to provide signing indicating the proper lane of travel for overheight vehicles traveling under an arched structure. The FHWA received comments relating to the proposed compliance dates for a guidance statement and confusion about the applicability based on the structure type. In this final rule FHWA clarifies their applicability to arch or similar type varying height structures and the application of a compliance date when a sign is not required, in the case of the recommendation for posting in Paragraph 8. Based on the critical nature of the infrastructure, FHWA adopts a compliance date of 5 years for both Paragraph 1 (required posting of the low clearance in advance of the structure) and Paragraph 8 (recommended posting of variable low clearances on the structure, unless determined based on engineering considerations that the recommended posting is not needed at that location).

In a previous and separate rulemaking, a standard for the minimum level of retroreflectivity that must be maintained for pavement markings was established along with a compliance date which became Revision 3 to the 2009 edition of the MUTCD. As a result, FHWA incorporates the provisions from that completed rulemaking into Section 3A.05. The compliance provision is only for implementation and continued use of a method that is designed to maintain retroreflectivity of longitudinal pavement markings, and the compliance date is September 6, 2026.

The NPA included a compliance date of 5 years for the new Guidance in Section 8B.16 recommending the installation of Low Ground Clearance and/or Vehicle Exclusion and detour signs for vehicles with low ground clearances that might become immobilized or hung up on high-profile grade crossings due to their undercarriages being too low to clear the roadway profile at the track crossing. The proposed compliance date applied only to those locations with known histories of vehicle hang-ups occurring, because sufficient geometric criteria do not currently exist for agencies to evaluate crossings to determine the specific types of vehicles that could experience hang-up situations. Comments on this section acknowledged the value of detour signing for low clearance vehicles in certain cases but suggested there are too many variables in terms of geometric conditions and the types of vehicles and vehicle combinations to adequately identify the risk of these vehicles hanging up at a grade crossing. There were also comments that suggested signing for all vehicles that could potentially hang up at crossings would result in excessive signing and driver confusion. There were also comments about the proposed compliance date, suggesting instead that devices should be brought into compliance through routine maintenance operations. Despite the challenges, FHWA acknowledges the need, as recommended in the National Transportation Safety Board (NTSB) recommendation H–18–024, to provide guidance to agencies to help identify and address high-profile crossings, especially those that are known from past experience to be subject to specific vehicle type hang-ups. The text provides Guidance and Support to assist agencies in addressing these situations through signing. The compliance date applies to known potential vehicle hang-up locations that are currently identified by agencies through their grade crossing inventory. The FHWA adopts the Guidance and Support statements as proposed, including compliance dates.

The NPA included a compliance date of 10 years for evaluation and installation of appropriate treatments), including preemption, movement prohibition, pre-signals, or queue cutter signals, for highway traffic signals located at or near grade crossings. Commenters indicated that the costs to evaluate and implement these treatments at highway traffic signals can be significant and may not align with

[6] 87 FR 47921.

[7] *https://www.ntsb.gov/investigations/AccidentReports/Reports/HAR1401.pdf.*

the agency's other priorities. Commenters also pointed out that the number of impacted locations varies greatly by State creating a significant challenge for some States to meet the proposed compliance date. Comments suggested that devices should be brought into compliance through the systematic replacement and upgrade of traffic control devices and not subject to a compliance date. This final rule adopts the compliance date for Sections 8D.09 through 8D.12 with revisions to require only an assessment and determination of appropriate treatment to reach compliance at specific locations. Agencies will be granted flexibility to determine the schedule for installation of improvements based on availability of funding and other safety priorities through the systematic replacement and upgrade of traffic control devices as currently prescribed in the MUTCD for other traffic control devices.

Experimentation

The FHWA recognizes the importance of innovation in traffic control devices for the improvement of traffic safety and operations, particularly for vulnerable road users and automated vehicles. The FHWA, in this final rule, greatly expands this section in a number of areas to better help practitioners in preparing experimentation plans. In the NPA, FHWA proposed to create a new section specifically related to experimentation, now Section 1B.06 (formerly part of Section 1A.10 in the 2009 MUTCD), with Standard, Support, and Guidance paragraphs describing the experimentation process, which provides for evaluation of new traffic control devices or applications under controlled conditions. As part of those changes, FHWA clarified the existing paragraph regarding the elements to be provided in an agency's request for experimentation from a Guidance to a Standard, and expanded the requirements, including specification of the timing of submitting semi-annual progress reports documenting the approved experiments.

Many commenters supported the need for experimentation and thoughtful process associated with it to provide uniformity and safety for road users; however, many commenters stated that they believe the experimentation process is getting more complicated. Commenters suggested that the existing process hinders innovation to the point of it becoming impossible to pursue due to the steps and time required. As a result, some agencies stated that resource restrictions prevent them from engaging in experimentation and therefore only a handful of States/agencies can afford to experiment. Several organizations and State and local departments of transportation suggested FHWA retain the experimentation process as Guidance, as opposed to Standards, and simplify it. Several commenters also suggested that the requirement for devices to be free from protection by patents, trademarks, etc. is overly burdensome and stifles innovation. They suggested that FHWA allow targeted patented and proprietary products to be used in the experimentation process without patent holders having to forfeit their proprietary protections and allow FHWA to consider these products based on their safety impacts, rather than having them precluded from the experimentation process before their benefits are known. Other comments ranged from allowing agencies to use engineering judgement to determine the appropriate course of action without making a request for experimentation to allowing the default assumption that experimentations may stay in place beyond the end of the experimentation period unless FHWA determines that the experimentation has created an unacceptable safety or operational issue. There were also several comments about the experimentations themselves, including the requirement for control sites, and the desire to coordinate research resources to support local agencies with data collection efforts and research partnerships.

In consideration of the comments, FHWA adopts a new Option to streamline the process for requesting official experimentation. This new Option allows a requesting agency to submit an abstract of the experimental concept for preliminary review of its viability and potential alignment with other ongoing or previous research on the concept. The FHWA frequently engages with agencies prior to submission of an official request, and the new Option should reduce burdens on agencies by deferring or eliminating the need to develop a full research plan in the event that FHWA identifies a solution that complies with the MUTCD.

An agency will sometimes submit a request for experimentation with a new device or application to address a need that, instead, could be addressed with devices that comply with the MUTCD. If an existing compliant solution is identified, the need for experimentation to develop and consider a new device or application is eliminated. To further assist agencies in preparing requests for experimentation, clarifying language is added stating that if one of the required items is not applicable for the specific device or application, those items are required to be addressed in the request with a brief explanation as to their non-applicability. The FHWA adopts this change to confirm that each of the required items has been addressed, even if some of the items do not apply to the particular type of experimental device or application or based on the evaluation methodology.

The FHWA retains the Standard requiring official approval to experiment with a traffic control device that does not comply with the provisions of the MUTCD on any street, highway, bikeway, or site roadway open to public travel. This Standard is a clarifying statement of the existing process that is necessary to limit use of non-compliant devices or applications and minimize any safety risk from experimental features, help ensure that experiments contain adequate provisions to determine effectiveness, and provide national documentation of results. The experimentation process ensures that efforts to solve safety or operational problems with new traffic control devices employ objective, data-driven approaches rather than subjective, anecdotal, or stochastic approaches that could result in unintended adverse effects. The FHWA understands that the experimentation process is of concern due to the level of analysis required, which can take time and financial resources. However, the MUTCD is the national standard for traffic control devices; therefore, deviation requires specific permission through experimentation approval. It is important to understand that nothing about the experimentation process prevents States or local communities from making decisions regarding the geometric design or land use pattern of a community for any reason, including to improve safety for vulnerable road users. The parameters regarding experimentation are intended to help ensure the experimental application does not introduce unintended risk or confusion into the transportation network due to noncompliant traffic control devices or applications. The type and level of analysis associated with experimentation helps ensure experimentation provides useful information for later decisionmaking on additional research, potential revisions to the MUTCD, or advancement of a concept through Interim Approval pending rulemaking. Therefore, the required basic elements for all experiments do not change though the specifics of how they are applied vary by the device being evaluated and the

context of its use. In many cases, simple experimentation provisions can fully address the necessary basic requirements and often in ways that are not prohibitively expensive. For example, field evaluation of a new device intended to improve motorist yielding at crosswalks might require only simple vehicle yielding counts by a trained observer at various intervals over a period of time to compare conditions before and after implementation. The cost of experimentation is completely dependent on the type of analysis needed to adequately evaluate the device or application.

The FHWA retains the existing MUTCD prohibition on patented or proprietary traffic control devices, including under experimental consideration, and adds language to clarify that this provision is actually a limitation that applies to traffic control devices, but not necessarily to certain aspects of those devices, such as their component parts. The FHWA has sufficient rationale for precluding patented devices in the MUTCD, including a long-standing history of uniformity issues when patented devices were used on roadways. Given that the purpose of experimentation is to test devices or applications for national applicability and potential or eventual inclusion in the MUTCD, allowing patented devices into the experimentation process would serve no purpose because eventual inclusion of a device into the MUTCD would still require relinquishing those rights. Further clarification on the extent to which the MUTCD limits and allows patented items is provided in Section 1D.06.

The FHWA also retains the existing provision subjecting experimental traffic control devices to removal following the conclusion of the experiment. Requiring the removal of experimental devices after an experiment has ended when those devices are not being considered for adoption in the MUTCD is necessary for consistency with the MUTCD being the national standard for traffic control devices, with non-compliant devices only being allowed during experimentation. Experimental devices that are shown to be sufficiently effective based on appropriate levels of experimentation are sometimes issued an Interim Approval official ruling and then become available for use by all agencies requesting their use. Experimental devices that lead to Interim Approvals are generally allowed to remain in place after the experimentation period during the Interim Approval issuance process.

Control sites, which are sites with similar characteristics to the experimentation site but without the experimental treatment itself, are typically considered essential for scientifically sound research on traffic control devices, as they allow for comparison of data to minimize the effects of variables that are not part of the study. However, FHWA agrees that for certain types of device evaluations or applications control sites may not be necessary to ensure sound research results. The FHWA therefore revises that requirement to allow for other equivalent evaluation methodologies to be used. In addition, a clarifying support statement is added allowing a single experimentation request from multiple jurisdictions wanting to experiment with the same device. Similarly, jurisdictions can potentially be added to an approved existing experiment underway by a different jurisdiction, thereby reducing the time and expense in experimenting with a device. This approach differs greatly from Interim Approval, as the sites in the added jurisdictions are required to be evaluated under the same experimentation plan.

Lastly, FHWA is developing experimentation guidelines separate from the MUTCD that will provide helpful direction in planning, submitting, and evaluating an MUTCD experiment with traffic control devices. The experimentation guidelines will include background information on research, how to find assistance, and practical examples of device experimentation across different levels of complexity. In response to noted concerns, the guidelines will seek to streamline understanding of experimentation with traffic control devices, as well as reduce financial or institutional barriers that local agencies, in particular, might experience in this area. This document is currently in development and will be published after the completion of this rulemaking.

Engineering Study and Engineering Judgment

In proposed Section 1D.05 (now Section 1D.03), FHWA proposed to provide new Standard, Guidance, and Support paragraphs to supplement existing Guidance and Support. The new text is based on FHWA Official Ruling No. 1(09)–1 (I)[8] and clarifies the application of engineering study and engineering judgment to the selection and specification of traffic control devices for implementation. Among the areas covered are the extent to which the specialized training and experience of an engineer are involved in traffic control device decisions and activities, and the authority of a jurisdiction or agency to make and implement those decisions, for the purpose of ensuring that facilities open to public travel meet a high level of safety that the public expects.

The changes clarify the role of trained engineers as important advisors whose engineering studies are valuable inputs in the overall decisionmaking process. Several commenters expressed concern over the definitions of engineering judgment and engineering study, indicating that others besides engineers or those under the supervision of an engineer should be allowed to make decisions about traffic control device application and activities.

The primary concern expressed was that small public agencies may not have staff that meets these requirements and therefore should be allowed to make those types of decisions regardless of engineering oversight. In response to these concerns, FHWA adopts the proposed language with minor edits noting that the text does not require every traffic control device decision to be made by an engineer or be made under the supervision of an engineer. However, decisions requiring engineering judgment and engineering study do require the specialized training and experience of an engineer, or someone acting under the supervision or direction of an engineer, to ensure the public facilities meet a high level of safety expected by the public for clarity, comprehension and legibility of message, as well as uniformity of application of traffic control devices in similar situations. The selection, design, and application of traffic control devices are inherently engineering functions. Traffic control device activities, such as installing and maintaining traffic control devices, are engineering functions conducted in accordance with plans, specifications, or other functions developed by and under the supervision or direction of an engineer. Engineers have a specific level of responsibility and accountability under professional licensure and are subject to a professional board and code of ethics. When necessary, there are many ways in which local communities are able to obtain engineering guidance including, but not limited to, the use of consultants and local transportation assistance type programs (Local Technical Assistance

[8] FHWA's Official Ruling No. 1(09)–1 (I) can be viewed at the following Web address: *https://mutcd.fhwa.dot.gov/resources/interpretations/pdf/1_09_1.pdf.*

Program,[9] or similar). Other resources, such as handbooks and field installation manuals, are available for select traffic control activities for which the direct supervision of an engineer might not be necessary. Such resources are developed by an engineering organization and adopted by the State or county transportation agency for use on roadways within their boundaries, including for local roadways.

To further clarify the intent of the provisions, FHWA adopts additional language to explain that the MUTCD does not mandate, and is not intending to imply, that an engineer must make the final decision whether to implement or execute the determination or advice of an engineer by installing or constructing the traffic control device to the engineer's specification in the field. Rather, the engineer, individual under supervision or direction of an engineer, or other individual as duly authorized by State law to engage in the practice of engineering, develops an engineering-based solution that includes the specifications for selection and placement of traffic control devices. The responsibility for a final decision to implement traffic control solutions rests with the agency (or owner) having jurisdiction over the roadway, after consultation with and based on advice from the engineer, to ensure that the design and operational intent of the facility are safely and effectively conveyed to road users. In many cases, it might be an engineer to whom the agency has delegated that authority. In other cases, such as with smaller agencies or owners of private roads open to public travel, it is the roadway owner that makes the decision on implementation, similarly following consultation with an engineer on the selection, design, and application of the specific traffic control device at the specific location to communicate safely and effectively with the road user.

In the final rule, the section is renumbered to Section 1D.03.

Part 2. Signs

Speed Limit Setting

Speed control and management are important elements in reducing fatalities and serious injuries, particularly on roadways where vehicles and vulnerable road users mix. States and local jurisdictions should set appropriate speed limits to reduce the significant risks drivers impose on others, vulnerable road users, and on themselves. In the NPA, FHWA proposed to reorganize and revise material in Section 2B.21 (formerly 2B.13 of the 2009 MUTCD) Speed Limit Sign (R2–1) based on the recommendation of the NTSB [10] to review how speed limits are determined. The NPA proposed to clarify the factors that should be considered when establishing or reevaluating non-statutory speed limits within speed zones, and to reinforce that other factors, in addition to the 85th-percentile speed,[11] have a role in setting speed limits.

Speeding is one of the largest and most persistent contributing factors in fatal traffic crashes, resulting in nearly 100,000 fatalities over the past decade.[12] The DOT's NRSS adopts a Safe System Approach which includes a focus on Safer Speeds as a core tenet and recognizes that achieving safe speeds requires a multi-faceted approach that leverages road design and other infrastructure interventions, speed limit setting, education, and enforcement.

Over the past several editions, FHWA has sought opportunities to reduce the amount of superfluous or duplicative content for purposes of streamlining the MUTCD and improving its usability, especially when that content is outside the scope of the MUTCD, which is the appearance, operation, and other aspects of traffic control devices—signs, signals, and markings. A number of commenters suggested that the MUTCD should not contain procedures on how to set speed limits, and that it is beyond its scope. The FHWA will assess the viability of removing the speed limit setting provisions from the MUTCD in a future rulemaking. This topic is discussed in more detail later in this section.

A large number of comments on the setting of speed limits were received from organizations, public jurisdictions, and individuals. Many comments were based on a presumption that speed limits are required to be set at the 85th-percentile speed. However, this presumption is inaccurate. There is no existing or new requirement that a speed limit must be set at the 85th-percentile speed. The MUTCD allows for roadway owners and engineers to consider a wide variety of other factors in the engineering study including road characteristics, roadside development and environment, pedestrian activity, parking, and crash experience. All these factors (including speed distribution) are analyzed as part of the required engineering study and it is through that comprehensive analysis that the appropriate speed limit is determined. Further, the MUTCD addresses only non-statutory speed limits. The MUTCD does not preclude States or localities from passing laws to set statutory speed limits. Comments varied broadly in scope and with recommendations that were sometimes conflicting in nature. For example, some commenters recommended completely removing the 85th-percentile speed as a factor to consider in an engineering study and instead requiring the Safe System approach. Others recommended retaining the 85th-percentile speed as a factor because it is a relevant data point that can be important as an indicator that other modifications or speed management strategies might be needed to achieve compliance or some level of a self-enforcing road or street design. Still other commenters suggested removing all material relating to speed limit setting from the MUTCD.

The FHWA is in general agreement with removing provisions from the MUTCD that fall outside its scope, particularly when that information can be found in another source. As mentioned earlier, FHWA has sought opportunities to reduce certain content for purposes of streamlining the MUTCD and improving its usability. The NPA did not propose complete removal of all speed limit setting material as, at this time, there is not an authoritative alternative document on this topic to which practitioners could be directed. Removal of this information under the current rulemaking would leave practitioners without a comprehensive, updated, data-driven reference from an authoritative source outside the MUTCD, as well as potential gaps in available information. (Development of such a comprehensive guide for speed limit setting is in progress and is discussed later in this section.) Therefore, in this final rule FHWA retains provisions on setting non-statutory speed limits in Section 2B.21 but with updates and revisions to state the entire range of factors, recommended for consideration in the engineering study to set a speed limit. In addition, the revised provisions clarify the role of speed distribution in

[9] Information about LTAP can be found at FHWA's Local Aid Support site at the following Web address: *https://www.fhwa.dot.gov/clas/ltap/.*

[10] NTSB report ''Reducing Speeding-Related Crashes Involving Passenger Vehicles,'' can be viewed at the following Web address: *www.ntsb.gov/safety/safety-studies/Documents/SS1701.pdf.*

[11] 85th-Percentile Speed is the speed at or below which 85 percent of the motor vehicles travel, which is sometimes used to provide an indication of the free-flow operating speed the roadway for determining traffic control device applications.

[12] National Highway Traffic Safety Administration, Speeding Traffic Safety Facts 2021 Data, report DOT HA 813 473, July 2023: *https://crashstats.nhtsa.dot.gov/#!/PublicationList/82.*

the engineering study in differing roadway contexts and environments.

The NPA solicited comments on two specific recommendations of the NTSB report: (1) the removal of the 85th-percentile speed as a consideration in setting non-statutory speed limits and (2) a requirement to use an expert system to validate a speed limit that has been determined through engineering study. Commenters were also requested to address likely outcomes if one or more of the other recommendations in the report, such as increased automated enforcement, were not implemented in conjunction with the speed-setting recommendations outlined in the report. Very few commenters addressed these questions directly, but many commenters incorporated their views on the first question especially into their overall comments on the NPA language in Section 2B.21, as described earlier. The FHWA reviewed and considered all comments on Section 2B.21 in making the determinations for this final rule that are described herein.

Safety is the DOT's priority. In furtherance of improving safety, in consideration of the comments received, and to further FHWA's statutory obligation under Section 11135 of BIL to provide for the protection of vulnerable road users, FHWA adopts the proposed NPA change to remove speed distribution from the existing Standard and instead include it in the Guidance provision among the recommended factors for the engineering study. The FHWA also adopts in this Standard a requirement that roadway context be considered in setting speed limits. The updated Guidance provision provides details on six factors to consider in engineering studies on setting speed limits, including roadway environment, roadway characteristics, geographic context, crash experience, speed distribution, and analysis of speed trends. This change clarifies that the engineering study is not just limited to the speed distribution and that the context of the roadway is part of the study. The Guidance also clarifies that on urban and suburban arterials and rural main streets, the 85th-percentile speed should not be used as the sole consideration in setting speed limits.

The FHWA emphasizes that there is no existing or new requirement that a speed limit must be set at the 85th-percentile speed. Rather, the 85th-percentile speed is included as one of the factors, as referenced in the preceding paragraph, recommended for consideration as a meaningful data point within the engineering study and is a potential indicator that other modifications or speed management strategies might be needed to achieve compliance or some level of a self-enforcing design. This aspect of the engineering study is critical because, just as speed limits need to reflect the road design, the road design similarly needs to reflect the desired operating speed. The FHWA also emphasizes that the relative weight given to each of the recommended factors in the engineering study will depend on the context of the location under study and that the MUTCD does not prioritize any one factor over another.

The FHWA revises the Guidance provision to provide additional flexibility in applying the factors that should be considered in the required engineering study. Also, FHWA adds the 50th-percentile (median) speed as recommended for consideration along with the 85th-percentile speed, because speed limits set below the 50th-percentile speed tend to encourage excessive violations and an analysis of both data points is appropriate as part of an engineering study. The FHWA adds Guidance for agencies to consider measures other than traffic control devices to help achieve desired vehicle operating speeds, when the 85th-percentile speed is appreciably greater than the posted speed limit or where past speed studies have indicated consistent increases in operating speeds. These measures include changes to geometric features and other speed-reduction countermeasures.

The FHWA retains the proposed Guidance provision recommending, but not requiring, that the speed limit be set within 5 mph of the 85th-percentile speed only on freeways and expressways, and on rural highways outside urban areas or urbanized conditions, as these are the types of facilities where the other factors (such as vulnerable road users) generally do not exist such that this Guidance is appropriate. As Guidance, this provision provides sufficient flexibility to apply unique engineering considerations that might exist; however, FHWA provides additional context by describing this applicability when all factors described in Paragraph 7 have been considered and determined to be non-mitigating or are not present and the factors described in the new Guidance Paragraph 8 have been considered. In addition, FHWA clarifies that factors other than speed distribution should be considered during an engineering study when setting a non-statutory or posted speed limit, depending on the site conditions of the specific location.

The FHWA introduces new Support information at the beginning of the section that discusses applying the provisions to set appropriate speed limits on non-limited access facilities where vehicle operators are more likely to encounter other road users, such as pedestrians and bicyclists, as well as clarify the application of expert systems and the Safe System approach.[13] The new Support provision clarifies that a range of factors can influence the speed limit determined in the engineering study. These factors include land-use context, pedestrian and bicyclist activity, crash history, intersection spacing, driveway density, roadway geometry, roadside conditions, roadway functional classification, traffic volume, and observed speeds. The engineering study will determine which of the recommended factors will prevail in setting the appropriate speed limit and the new provisions are intended to ensure that practitioners consider all road users when setting a speed limit. The FHWA believes that the changes adopted as described herein will result in improved safety through the setting of speed limits that more appropriately reflect their environment and the mix of road users.

To support and better emphasize the importance of roadway context in speed limit setting, FHWA is coordinating as a separate effort the development of a new, comprehensive Speed Limit Setting document to assist practitioners with information on the available tools and how factors for consideration can be used as part of the engineering study in setting a non-statutory speed limit. In conjunction with this effort, FHWA will assess the viability of removing the speed limit setting provisions from the MUTCD and will consider such a revision for a future rulemaking.

Electric Vehicles and Alternative Fuels

In the NPA, FHWA proposed several revisions related to signing for electric vehicle (EV) charging and alternative fuels using General and Specific Service signs. General Service signs display words or symbols to eligible motorist services available along a freeway, expressway, or conventional road. Eligible services include food, gas, EV charging, lodging, camping, public telephone, hospital, or tourist information. Specific Service signs are display specific business identification logos of eligible of commercial motorist services available along a freeway or expressway. Business identification logos are grouped by eligible service category; eligible service categories for Specific Service signs are gas, EV charging, food, lodging, camping, and

[13] *https://highways.dot.gov/safety/zero-deaths.*

attractions. Both General Service and Specific Service signs used on freeways and expressways require trailblazing signs providing directional information from an exit ramp all the way to the service site when the service is not visible from the exit ramp intersection with the crossroad.

Alternative Fuels Corridor signs inform road users of the highway segments that have been designated by FHWA as ''Corridor Ready,'' and use either General Service or Specific Service signs in advance of each interchange or intersection for the fuel service along that corridor. Eligible fuel services for Alternative Fuels Corridors are electric vehicle charging, compressed natural gas, liquefied natural gas, liquid propane gas, and hydrogen. The FHWA proposed to incorporate information related to EV charging and parking signing based on FHWA's Memorandum on Regulatory Signs for Electric Vehicle Charging and Parking Facilities.[14] The FHWA also proposed to incorporate technical provisions based on FHWA's Policy Memorandum, ''MUTCD-Signing for Designated Alternative Fuels Corridors,'' issued December 21, 2016.[15] The market for alternative fuel vehicles and specifically EVs has evolved significantly in recent years, as has the demand for such vehicles and their corresponding fueling/charging infrastructure. Comments on the NPA reflected this shift and focused on signing for EV charging services and Alternative Fuels Corridors by requesting additional flexibilities to include EV charging services on Specific Service Signs and EV charging supplemental messages on business identification (logo) sign panels for other types of services.

The FHWA agrees with these comments and is adding several provisions to the MUTCD to ensure adequate flexibility is available to sign for EV charging services and Alternative Fuels Corridors. For Alternative Fuels Corridors, FHWA adds technical provisions from FHWA's Policy Memorandum, ''MUTCD-Signing for Designated Alternative Fuels Corridors,'' to the MUTCD in Chapter 2H, Section 2H.14. The provisions establish the Alternative Fuels Corridor signs in the MUTCD and clarify use of General Service Signs and directional assemblies to guide motorists to EV charging services. The final rule also includes new figures in MUTCD Section 2H.14 showing typical sign layouts along an Alternative Fuels Corridor and the use of EV charging General Service signs. As part of these changes, FHWA adds clarity in the final rule that directional trailblazing signing all the way to the charging service site is required when General Service signs are used.

The FHWA also adds a new Specific Service sign category in Chapter 2J for EV charging. The existing general provisions for Specific Service signs apply equally to EV charging Specific Service signs. The eligibility to have an EV charging business identification sign panel on a sign generally reflects eligibility criteria for National Electric Vehicle Infrastructure funding and other types of fueling services. To reflect public comments, the final rule also allows EV charging supplemental messages be added to the bottom of a business identification sign panel used on other categories of Specific Service signs (food, lodging, etc.) if the EV charging service at that business meets the same eligibility criteria for the EV charging General Service signs. As with all Specific Service signs, directional signing from the freeway to the EV charging service is required if the direction to the site is unclear or additional guidance is needed such as when subsequent turns onto other roads are required.

AMBER Alerts on CMS

In Section 2L.02, the NPA proposed a new Guidance statement recommending that America's Missing: Broadcast Emergency Response (AMBER) alerts should not preempt messages related to traffic or travel conditions, should be as brief as possible, and should not include other information, such as detailed descriptions of persons, vehicles, or license plate numbers.

Several State DOTs and the NCUTCD suggested that information regarding the vehicle, including the license plate, are essential pieces of information and are currently used for AMBER alert messaging. One State DOT shared its experience with using only a general vehicle description that resulted in generating an overwhelming number of 911 calls. Commenters indicated that more detailed information, such as the license plate number is necessary for AMBER alerts to be effective.

In response to comments, FHWA removes the Guidance specifically discouraging the use of descriptions of persons, vehicles, or license plate numbers as part of AMBER alert messages on CMS in the final rule. Guidance is retained that AMBER alert messages should be kept as brief as possible to address the potential of overloading road users with detailed information and, when possible, use other sources to convey that detailed information associated with the alert. Also, FHWA retains the proposed Guidance that AMBER alerts should not preempt messages related to traffic or travel conditions to ensure road user have real-time changing traffic and travel conditions requiring immediate motorist response. The FHWA believes the final rule is responsive to commenters and promotes the appropriate use of CMS to enhance public safety, consistent with Section 11135 of BIL.

Safety Messages on Changeable Message Signs

In Chapter 2L, FHWA proposed several provisions in the NPA related to safety messages on CMS. The NPA included new Guidance and Standard paragraphs in Section 2L.02 regarding the appropriate and allowable use of traffic safety campaign messages on CMS displays. The FHWA proposed this new language to clarify that safety and transportation-related messages—which had been and would continue to be allowed—should be clear and direct, and meaningful to the road user on the roadway that the message is displayed. The FHWA recommended that messages with obscure meaning, references to popular culture, that are intended to be humorous, or otherwise use nonstandard syntax for a traffic control device, not be displayed because they can be misunderstood or understood only by a limited segment of road users and, therefore, degrade the overall effectiveness of the sign as an official traffic control device. The FHWA proposed a Standard that only traffic safety campaign messages that are part of an active, coordinated safety campaign that uses other media forms as its primary means of outreach be displayed on CMS, such that the CMS message would be a supplement to the overall campaign that employs other media and/or tools to promote the message.

While a number of commenters expressed support for the proposed provisions on traffic safety messages on CMS, others expressed opposition and

[14] FHWA's Memorandum, ''Regulatory Signs for Electric Vehicle Charging and Parking Facilities,'' issued June 17, 2013, can be viewed at the following Web address: *https://mutcd.fhwa.dot.gov/resources/policy/rsevcpfmemo/*.

[15] FHWA Policy Memorandum, ''MUTCD-Signing for Designated Alternative Fuels Corridors,'' issued December 21, 2016, can be viewed at the following Web address: *https://mutcd.fhwa.dot.gov/resources/policy/alt_fuel_corridors/index.htm*. Since the publication of the NPA this memorandum has been superseded by FHWA's February 16, 2023, Memorandum on the same topic: *https://mutcd.fhwa.dot.gov/resources/policy/signing_alt_fuel_corridors/index.htm*. The substantive provisions relating to the signing of EV charging services remained unchanged in the 2023 memo.

suggested that the provisions should be less restrictive. Several commenters suggested moving all information related to traffic safety messages to a single section. Many commenters expressed concern that messages outside of the National Highway Traffic Safety Administration (NHTSA)-developed enforcement campaign slogans would not be allowed under the proposed revision. While some commenters did request more flexibility in safety messaging and CMS use in general, many commenters supported the proposed provisions to help stem what they viewed as overuse or inappropriate uses of CMS. Some commenters believed that the NPA should explicitly restrict specific types of messages and even develop a standardized library of acceptable messages.

In response to comments, FHWA places all information related to traffic safety campaign messages in Section 2L.07. In addition, as it was not the intent to restrict safety campaign messages only to those on the NHTSA Communications Calendar, FHWA revises the applicable Guidance provision so as not to imply that an agency is precluded from developing and displaying messages of its own traffic safety campaigns separate from the NHTSA campaigns.

The provisions on message construction and content, as proposed, are largely consistent with past and current human factors research in the areas of driver information overload, comprehension, the general principles for effective traffic control devices, and, specifically, messaging on CMS. These considerations were also the basis for FHWA's 2021 policy memorandum on CMS [16] use that was developed in collaboration with NHTSA. The Guidance provisions, as adopted, can be deviated from based on engineering judgement. However, FHWA believes these are important considerations as not to diminish respect for the sign when used in other traffic-related scenarios for regulatory, warning, and guidance under prevailing conditions.

Part 3. Markings

Normal Line Width (4-Inch to 6-Inch Width)

Based on comments to the NPA, a review of the relevant research, and the potential beneficial impacts of the recent final rule [17] related to maintaining pavement marking retroreflectivity that will increase pavement marking visibility, changing the width of normal and wide longitudinal lines is not adopted in the final rule and the existing provisions on longitudinal pavement marking width from the 2009 Edition are retained.

In Section 3A.04 Functions, Widths, and Patterns of Longitudinal Pavement Markings, in the Standard describing the widths and patterns of longitudinal lines, FHWA proposed in the NPA to revise the width of normal lines to indicate that 6-inch-wide lines are to be used for freeways, expressways, and ramps as well as for all other roadways with speed limits greater than 40 mph and that 4- to 6-inch-wide lines are to be used for all other roadways. The FHWA proposed this change to improve visibility and consistency on ''high-speed'' facilities and based on research showing improved machine vision detectability.

The FHWA also proposed to change the definition of a wide line to at least 8 inches in width if 4-inch or 5-inch normal lines are used, and at least 10 inches in width if 6-inch normal lines are used. This change was proposed to clarify the definition based on varying practices for ''normal'' width lines and to reduce the impact on agencies that use 6-inch lines as their ''normal'' width.

In addition, FHWA proposed to add a new Guidance statement regarding the width of the discernible space separating the parallel lines of a double line so that they can be recognized as a double line rather than two, separate disassociated single lines.

The FHWA received several comments opposed to the new requirement for 6-inch-wide normal lines due to the additional cost. Commenters suggested that the financial impact was underrepresented since the change is not a one-time cost but also increased life-cycle costs related to ongoing maintenance with pavement resurfacing and marking ''refreshing.'' Some commenters also suggested that the extent of the proposed 6-inch requirement was not supported by research. A number of agencies stated they may decide not to install markings at all on roadways that do not meet the warrants for centerlines and edge lines in Sections 3B.02 and 3B.10 based on the increased cost of 6-inch markings, which may result in increased crashes. Several studies have shown that the presence of longitudinal pavement markings decreases crashes, including on roadways where the MUTCD provisions do not require or recommend the markings.[18] [19] Some commenters also stated additional research is needed for human road users, as well as driving automation systems, to determine the actual discernable limits for distinguishing between a normal and wide line and the discernable space between double lines.

Additional Support statements are added to inform practitioners that based on research documented in FHWA's Wider Edge Lines Proven Safety Countermeasure,[20] 6-inch edge lines can provide a safety benefit over the minimum 4-inch edge lines on all facility types (*e.g.,* freeways, multilane divided and undivided highways, two-lane highways) in both urban and rural areas. A reference to Section 5B.02 is also included to inform practitioners of the longitudinal pavement marking considerations relevant to driving automation systems. These changes will provide agencies information and the flexibility to determine where to use wider longitudinal lines based on data specific to their roadways, consistent with FHWA's Proven Safety Countermeasures for Roadway Departure.[21] Further, the proposed Guidance statement regarding the width of the discernible space separating the parallel lines of a double line is adopted with revision to specify the space should not exceed two times the line width of a single line.

Retroreflectivity

When FHWA released the NPA for the 11th Edition, a separate rulemaking remained in progress to revise the MUTCD to include a Standard for the minimum level of retroreflectivity that must be maintained for pavement markings. Therefore, FHWA designated

[16] FHWA's Official Ruling No. 2(09)-174 (I), ''Uses of and Nonstandard Syntax on Changeable Message Signs,'' can be viewed at the following Web address: *https://mutcd.fhwa.dot.gov/resources/interpretations/2_09_174.htm.*

[17] National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Maintaining Pavement Marking Retroreflectivity Final Rule, 87 FR 47921, August 5, 2022.

[18] Sun, X., and S. Das. A Comprehensive Study on Pavement Edge Line Implementation. FHWA/LA.13/508, April 2014 can be viewed at the following Web address: *https://www.ltrc.lsu.edu/pdf/2014/FR_508.pdf.*

[19] Tsyganov, A., R. Machemehl, and N. Warrenchuk. Safety Impact of Edge Lines on Rural Two-Lane Highways in Texas. FHWA/TX–05/0–5009–1, September 2005 can be viewed at the following Web address: *https://ctr.utexas.edu/wp-content/uploads/pubs/0_5090_1.pdf.*

[20] FHWA Office of Safety Proven Safety Countermeasure on Wider Edge Lines (FHWA–SA–21–055) can be accessed at the following Web address: *https://highways.dot.gov/sites/fhwa.dot.gov/files/2022-08/PSC_New_Wider%20Edge%20Lines_508.pdf.*

[21] FHWA Office of Safety Proven Safety Countermeasures on Roadway Departure can be accessed at the following Web address: *https://highways.dot.gov/safety/proven-safety-countermeasures.*

Section 3A.05 Maintaining Minimum Pavement Marking Retroreflectivity as reserved for the future provisions from the separate FHWA rulemaking, without any proposed text. Several commenters endorsed the inclusion of language in this final rule based on current research to facilitate both human vision and automotive cameras. It was noted that driving automation systems use pavement markings for guidance, and minimum retroreflectivity levels would enhance system reliability. A comment was made to exclude minimum retroreflectivity requirements for roads closed to the public at night as the installation could otherwise be cost prohibitive where they are not currently installed, namely on park roadways.

The FHWA published the final rule on pavement marking minimum retroreflectivity on August 5, 2022 (87 FR 47921), which became Revision 3 to the 2009 edition of the MUTCD. As a result, FHWA incorporates the provisions from that completed rulemaking which include Support, Options, Guidance, and Standards regarding minimum maintained retroreflectivity levels for longitudinal pavement markings on all roadways open to public travel with speed limits of 35 mph and greater. Option statements define markings that may be excluded from the provisions of maintaining minimum retroreflectivity based on conditions such as ambient light levels, daily volume, and type of marking (*e.g.,* dotted extension lines, curb markings, parking space markings, and shared-use path markings). The compliance date established by the final rule on pavement marking minimum retroreflectivity remains in effect and is added to Table 1B–1 in this final rule.

Marked Crosswalks

In the NPA, FHWA proposed to add a new Section 3C.02 Applications of Crosswalk Markings, containing several paragraphs from existing Section 3B.18. As part of this, FHWA proposed several revisions to clarify placement of crosswalks. A new Standard paragraph proposed in Section 3C.01 is adopted with revisions and located in Section 3C.02 in the final rule, since it includes requirements specific to the application of crosswalk markings. The Standard requires, after the agency or official having authority makes the determination to legally establish a crosswalk at a non-intersection location, that crosswalk markings shall be provided. The FHWA believes this is appropriate as it will improve safety, by clearly identifying the requirements of crosswalk markings at non-intersection locations which will help alert road users of a designated pedestrian crossing point and provide guidance for pedestrians by defining and delineating paths across roadways, particularly vulnerable road users, in conformance with Section 11135 of the BIL.

In the NPA, FHWA retained some text unchanged from the 2009 MUTCD Section 3B.18, including the existing Guidance Paragraph 7 recommending crosswalk markings be installed where engineering judgment indicates they are needed to direct pedestrians to the proper crossing path(s) at locations controlled by traffic control signals or on approaches controlled by STOP or YIELD signs.

Many commenters indicated that crosswalk markings should be required (rather than recommended) at all crosswalks regardless of location, and particularly at signalized intersections. In response to comments, FHWA revises propose Paragraph 5 (now Paragraph 1), to indicate crosswalk markings should be installed at locations controlled by traffic control signals and adds an Option (Paragraph 2) to allow the crosswalk to remain unmarked if engineering judgement indicates they are not needed to direct pedestrians to the proper crossing path(s).

The FHWA believes that requiring all crosswalks to be marked in all locations would be a substantial change that would benefit from a review of relevant research to include stop lines, consideration of the impacts to signalized intersections in rural areas with no pedestrian facilities, consideration of the impacts to agencies with a significant number of intersections controlled by a STOP or YIELD sign, and additional public comment before being considered for adoption in the MUTCD as a Standard.

Changes to existing Guidance Paragraph 8 are adopted in Section 3C.02 Paragraph 4, with revisions in response to comments, with the intent to remove language which may have been previously misinterpreted as simply discouraging or avoiding the installation of crosswalks. Although not new Guidance, due to the importance of vulnerable road user safety, it is vital to reiterate the existing recommendation to conduct an engineering study in order to determine whether providing a marked crosswalk alone is safe for locations not controlled by a traffic signal or STOP or YIELD sign, or if additional traffic control devices and other measures should be considered to reduce traffic speeds, shorten crossing distances, enhance the conspicuity of the crossing, or provide active warning of pedestrian presence, as further discussed in the revised existing Guidance Paragraph 9 (now Section 3C.03 Paragraph 6). The agency (or owner) having jurisdiction over the roadway is ultimately responsible for the decisions on what, and where, to build and the engineering study recommended aims to guide the recommended traffic control devices at the determined location.

In the final rule, FHWA revises the criteria to be considered in the recommended engineering study. In addition to the distance from adjacent signalized intersections, the distance to other controlled crossings should be considered. The existing pedestrian volume and delay criteria were expanded to include bicyclists, projected volumes, paths of travel, the ages and abilities of road users, and the location or frequency of public transit stops to guide practitioners on additional factors to consider in determining where to mark crosswalks away from controlled locations. An important factor is roadway context; on roadways where adjacent land use suggests that trips could be served by varied modes, it is important to provide safe crossings. Including projected volumes in the recommended engineering study can address concerns that pedestrian and bicycle demand may not be captured by a traffic count, as locations without an established crosswalk might be avoided by some pedestrians and bicyclists. Once the appropriate traffic control devices are installed, consistent with the adopted Paragraph 6 discussed below, to establish a safe crosswalk, the volume of pedestrians and bicyclists may increase due to the new or improved crossing. The existing criterion of the geometry of the location was expanded to specify the horizontal and vertical geometry of the crossing location to highlight the importance of stopping sight distance and visibility of road users utilizing a crosswalk and the potential effect on vulnerable road user safety. Analysis of available gaps was also raised as a potential criterion for consideration in the recommended engineering study and FHWA believes this is included in pedestrian and bicyclist delays. The FHWA also received comments suggesting additional changes such as crash history and using pedestrian walking speeds in lieu of ages and abilities, specific warrants for crosswalks, or minimum spacing of crosswalks be included in the criteria of an engineering study. The FHWA believes crash history could be considered an ''other appropriate factor'' (item N) to be considered in the engineering study, but the other

suggested changes from commenters would require further research before being considered in a future rulemaking effort.

Changes to existing Guidance Paragraph 9 are adopted as Paragraph 6 in Section 3C.02, with editorial revisions in response to comments. In order to protect vulnerable road users, FHWA provides recommendations of specific conditions where the installation of additional traffic control devices, and other measures, instead of simply marking a new crosswalk with signs alone, should be considered, consistent with FHWA's Guide for Improving Safety at Uncontrolled Crossing Locations.[22] The recommendation is intended to improve pedestrian safety at uncontrolled crossing locations with posted speed limits 40 mph or greater and at locations where there is a crash threat due to multiple lane crossings or limited sight distance by encouraging the installation of additional traffic control devices or other measures, as appropriate, beyond the basic marked crosswalks and warning signs. Some of these additional measures include other traffic control devices and applications designed to reduce traffic speeds, shorten crossing distances, enhance driver awareness of the crossing, and/or provide active warning of pedestrian presence.

Aesthetic Surface Treatments in Crosswalks, Islands, Medians, Shoulders, and Sidewalk Extensions

General Discussion

In the NPA, FHWA proposed changes to address applications of colored pavements, making a distinction between the use of color in a traffic control device application (*e.g.,* red-colored pavement for public transit systems, and green-colored pavement for bike lanes) versus as an aesthetic surface treatment that is not intended to serve a traffic control purpose. Commenters addressed a number of issues surrounding aesthetic surface treatments, often with disparate views. Along with those views expressed, commenters also generally acknowledged that there is a lack of research or safety data, positive or negative, to support the proposed provisions on aesthetic surface treatments; how individuals with vision disabilities are impacted by different surface treatments with varying colors or patterns; and concerns with machine vision and driving automation systems' ability to detect and process nonuniform aesthetic treatments. In this final rule, FHWA maintains the distinction between colored pavements that serve a traffic control purpose, and aesthetic surface treatments, whether colored or not, that are applied for aesthetic purposes only and are not intended to serve a traffic control purpose.

The FHWA emphasizes that agencies that wish to employ surface treatments for aesthetic purposes in various scenarios have the flexibility to do so, as applicable Federal, State, and local laws and policies allow. However, the MUTCD does not prohibit the use of aesthetic surface treatments (including visually complex treatments, the designs of which might be characterized more as ''artistic'' in their composition), except in limited situations as described in more detail throughout this section. This includes the use of aesthetic surface treatments between the transverse lines within a crosswalk, in islands, in medians, in shoulders, within sidewalk extensions designated by pavement markings, or in other areas outside of the traveled way provided that the aesthetic surface treatment does not mimic, obscure, or otherwise adversely impact the effectiveness of other traffic control devices, such as other pavement markings in that location.

Determination as to whether a surface treatment obscures or otherwise adversely impacts the traffic control devices is made by the State or local agency that owns and operates the roadway, taking into consideration any other Federal, State, or local laws, regulations, and policies governing the use of highway right-of-way unrelated to the MUTCD. The FHWA emphasizes that safety should be the top priority in making such determinations and, in many situations, the use of one of the high-visibility crosswalk patterns or the addition of other traffic control devices might instead be the appropriate measure to improve safety. New provisions are included in the final rule with the intent to provide agencies with information on reducing the likelihood of any aesthetic surface treatments compromising the effectiveness of traffic control devices by maintaining separation and contrast. The FHWA also adopts several provisions to help ensure that vulnerable road user safety is maintained, recognizing that agencies have the flexibility to make decisions taking into consideration a number of factors.

Although aesthetic surface treatments most often involve the use of single or multiple colors, the MUTCD employs the term ''colored pavement'' to refer exclusively to traffic control devices as contrasted with aesthetic surface treatments that might incorporate color. Colored pavement for traffic control purposes is optional and supplements other standard markings. Specific color applications for traffic control purposes include green-colored bicycle lanes, purple-colored electronic toll lanes, red-colored transit lanes, white for channelizing, and yellow for median islands and channelizing. The provisions for aesthetic surface treatments are included within the Colored Pavements Chapter of the MUTCD to distinguish them from colored pavements that are traffic control devices, and to clarify how an aesthetic surface treatment might interact with a traffic control device so as not to adversely impact the effectiveness of the traffic control device.

The new edition of the MUTCD only addresses those colored pavements that are traffic control devices, or those aesthetic surface treatments that interact with traffic control devices, as the scope of the MUTCD is limited to traffic control devices. Colored pavements used for traffic control purposes communicate regulations, guidance, and warnings to road users; supplement other standard markings with standard, solid color applications to pavement; and meet retroreflectivity criteria where applicable in accordance with the MUTCD.

In contrast, surface treatments that are purely aesthetic do not include retroreflective elements; do not communicate regulations, guidance, warnings, or other information to road users; and do not interfere with or mimic traffic control devices. These aesthetic surface treatments are sometimes referred to as ''street murals'' or ''asphalt art,'' and might be a single solid color, or their designs might include multiple colors. Because these treatments are generally outside the scope of the MUTCD, the MUTCD does not prohibit them within the roadway right-of-way. Rather, as may be allowed by other Federal, State, or local statute, regulation, or policy, the determination of the acceptability of aesthetic surface treatments on street or highway right-of-way is determined by local or State authorities that have jurisdiction over the roadway. Therefore, the determination as to whether a particular aesthetic surface treatment is acceptable for use in the highway right-of-way falls outside the scope and provisions of the MUTCD except to the extent that the

[22] FHWA's Guide for Improving Safety at Uncontrolled Crossing Locations (FHWA–SA–17–072) can be accessed at the following Web address: *https://highways.dot.gov/sites/fhwa.dot.gov/files/2022-07/STEP_Guide_for_Improving_Ped_Safety_at_Unsig_Loc_3-2018_07_17-508compliant.pdf.*

treatment might interfere with or mimic a traffic control device.

Continuing Research

Due to the interest in aesthetic surface treatments on travel pavements for over a decade, and the heightened interest in the more complex or artistic types of aesthetic surface applications in more recent years, in the NPA, FHWA requested comment on how more intricate designs and bright colors around standardized crosswalk markings improve the safety or operations at and around the crosswalk, while maintaining the recognition of the crosswalk. Jurisdictions often cite safety as the rationale for these types of installations. The FHWA requested that commenters support their position by providing quantifiable and objective data that they had collected or were aware of, such as from human factors evaluations or other studies. Specifically, FHWA sought information pertaining to the safety and navigation of road users, and any effects of non-standard designs on pedestrians with low visual acuity or other vision impairments. The FHWA also sought data on the ability of machine vision of driving automation systems to detect accurately and react appropriately to the markings as a crosswalk.

Some commenters stated that, to their knowledge, aesthetically treated crosswalks do not contribute to a degradation of road user safety; however, substantive quantifiable and objective data to support this position were not provided. Some commenters suggested that additional research be conducted to formulate appropriate regulations consisting of appropriate applications, designs, and materials before moving forward.

As mentioned earlier, FHWA has been aware that this area is of interest for communities and, in response to longstanding concerns, is conducting research on the safety implications of various types of surface treatments in crosswalks. The FHWA will use the results to inform potential changes to the MUTCD and/or the need for additional research into vulnerable road user safety at crosswalks.

The FHWA is also aware of a study conducted on the potential safety effects of ''asphalt art'' [23] which was published after the NPA docket closed. The study report concludes that there is a correlation between asphalt art and improved safety, though it could not establish or infer causation, in part due to the confounding of a number of variables including other improvements made concurrently, and the inability to determine whether the art itself, additional traffic control, roadway, or roadside improvements resulted in the improvement. For example, it is generally accepted that a narrowing of the street or traveled way, such as with pavement markings to create sidewalk extensions or channelization, can reduce vehicle operating speeds. The extent to which the addition of aesthetic treatments within the reclaimed pavement at many of the study sites either contributed to, or inhibited, an improvement in safety could not be determined or was not reported. For this reason and, as stated in the study, to determine whether surface treatments individually contribute to vulnerable road user safety, FHWA is conducting research.

In addition, in response to comments, FHWA will continue to gather more data on the use of colored pavements that are part of traffic control markings to learn more about their overall safety impacts, with a particular focus on people with disabilities, including those with low visual acuity or cognitive impairments. The FHWA is in the process of completing closed-course research on the impacts of a subset of surface treatments in crosswalks consisting of brick patterns, multiple color arrangements, or more complex geometric designs using multiple colors in combination with different underlying standard crosswalk patterns. This research specifically includes pedestrians with low vision as research participants, in addition to pedestrians and drivers. The FHWA is pursuing additional open-course research to support the closed-course research. Upon statistically significant research results or measures of effectiveness from additional open-course studies suggesting there is a direct impact on vulnerable road user safety, further updates to the regulations surrounding surface treatments, beyond those updates included in this rule, might be considered in a future rulemaking effort. Similarly, this issue may be revisited based on the Architectural and Transportation Barriers Compliance Board's (U.S. Access Board) Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (''PROWAG'') rulemaking [24] and other research into tactile wayfinding in transportation environments,[25] particularly when considering crosswalks and sidewalk extensions designated by pavement markings.

Colored Pavement as a Traffic Control Device

In Section 3H.01 (existing Section 3G.01), retitled, ''Standardization of Application,'' FHWA adopts a new Standard paragraph limiting the use of colored pavement as a traffic control device only to where it supplements other markings. The FHWA adopts this change to improve upon the established widespread system of uniformity in the application of colored pavement used as a traffic control device. This requirement does not apply to colored pavements used as a purely aesthetic surface treatment. The proposed Standard regarding the colors to be used for colored pavement is not adopted, as an existing Standard paragraph in this Section already contains these requirements as they apply to colored pavements used as a traffic control device.

The FHWA adopts a new section numbered and titled, ''Section 3H.02 Materials,'' to provide agencies with information to assist in the selection of appropriate colored pavement materials to improve road user safety. This section is adopted with revisions in response to comments; however, the proposed Support paragraph regarding wear of colored pavement is not adopted in the final rule, since it is not related to the use of a traffic control device, and the maintenance of traffic control devices is covered in other sections. Some commenters requested additional specific information on appropriate skid resistance values considering all road users. Historically, standard specifications for construction, including colored pavement or pavement marking material specifications containing specific skid resistance values or coefficients of friction, are developed by the individual State and local agencies based on their specific needs. As a minimum skid resistance value may have an impact on vulnerable road user safety, FHWA will review available research and information to inform potential future

[23] Asphalt Art Safety Study prepared by Sam Schwartz, a TYLin Company, for Bloomberg Philanthropies, April 2022, can be viewed at the following Web address: *https://www.samschwartz.com/asphalt-art-safety-study*.

[24] Architectural and Transportation Barriers Compliance Board's Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (RIN 3014–AA26) can be accessed at the following Web address: *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=3014-AA26*.

[25] NCHRP 17–94 Tactile Walking Surface Indicators To Aid Wayfinding For Visually Impaired Travelers In Multimodal Travel which is managed under TCRP B–46 Tactile Wayfinding in Transportation Settings for Travelers Who Are Blind or Visually Impaired and can be accessed at the following Web address: *https://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=4513*.

changes to the MUTCD or to another resource as appropriate.

Aesthetic Surface Treatments—Interaction With Traffic Control Devices

The FHWA proposed to add a new section numbered and titled, ''Section 3H.03 Aesthetic Treatments in Crosswalks,'' with two paragraphs from existing Section 3G.01 and new Standard, Guidance, Option, and Support to reflect FHWA's Official Ruling No. 3(09)–24 (I) which was issued in response to a trend by some agencies toward installing treatments on roadway pavement that go beyond the basic aesthetics of the paving materials and instead include bright colors, visually complex graphics, images, or words. Some commenters supported the proposed changes noting the specific needs of people with low visual acuity or other vision impairments, along with the limited abilities of machine vision, to discern variations in surface treatments from standard markings. Other commenters stated that there is no evidence that suggests adverse impacts from these treatments on roadways with a posted speed limit above 30 mph. Many comments also indicated a lack of research that suggests surface treatments in general create safety concerns, and the proposed Standards are unfounded. Other commenters suggested that any regulation of aesthetic surface treatments is inappropriate in the MUTCD as they are not traffic control devices.

While FHWA agrees that aesthetic surface treatments are not traffic control devices, FHWA believes that this proposed section is appropriate because of the interaction with official traffic control devices that such treatments frequently pose. As stated earlier, it is important that these treatments not resemble or interfere with the uniform appearance of traffic control devices, as that could confuse and distract road users. In response to comments, FHWA limits the Standards, Guidance, and Support included in the MUTCD regarding aesthetic surface treatments to those provisions that are necessary to help ensure pedestrian safety and the accessibility of individuals with disabilities, and to minimize any adverse impacts to the effectiveness of traffic control devices. As described earlier, the MUTCD does not prohibit the application of aesthetic surface treatments within the roadway. However, the MUTCD does limit their use or character to the extent that they interact with or relate to traffic control devices. In addition, the use of these treatments could be subject to other Federal, State, or local regulations and policies unrelated to the MUTCD. Those other regulations or policies might prohibit or otherwise limit the use of aesthetic surface treatments in some situations. In other words, aesthetic surface treatments are not of themselves prohibited by the MUTCD, but the MUTCD limits how the treatments might overshadow the nature of traffic control devices such as marked crosswalks. Transportation agencies implement aesthetic treatments at their own risk as permissible by local, State, and other Federal laws, regulations, and policies; as long as the treatments do not interfere with, confuse, or obstruct traffic control devices for any users, especially people with disabilities, including those with low visual acuity; and, ultimately, subject to an overall assessment of road user safety.

Aesthetic Surface Treatments—Maintaining Separation and Contrast

The FHWA adopts the newly proposed Section with a revised title, ''3H.03 Aesthetic Surface Treatments'' in response to comments that questioned the perceived restrictions by lack of specific language on aesthetic surface treatments at other locations such as islands, medians, shoulders, sidewalk extensions designated by pavement markings, or other areas outside the traveled way. New provisions are included in the final rule with the intent to provide agencies information on how to prevent aesthetic surface treatments from compromising the effectiveness of traffic control devices by maintaining separation and contrast. Existing Support Paragraph 2 from existing Section 3G.01, is relocated to Section 3H.01 with edits, and additional revisions are made to the final rule in Sections 3H.01, 3J.03 and 3J.07 to clarify the difference between colored pavements used as traffic control devices and aesthetic surface treatments, and the considerations in the use of aesthetic surface treatments.

In the NPA, FHWA also proposed to add a new section numbered and titled, ''Section 3J.07 Curb Extensions Designated by Pavement Markings'' to include Support, Standard, Guidance, and Option paragraphs to improve consistency and uniformity when the application of pavement markings is to be used to create an extension of the sidewalk in the roadway pavement. The term ''curb extension'' was used in the NPA to refer to roadway pavement that is reclaimed and designated for non-vehicular use. However, the term ''sidewalk extension'' is adopted in the final rule because it more accurately describes the purpose of the concept and emphasizes the redesignation of that portion of the roadway exclusively for pedestrian use. The term is also in established use in several design resources and, therefore, will enhance consistency. In some cases, after evaluating the site-specific context, it may be determined that redesignation of the area as a sidewalk extension, which reduces roadway crossing distances but places pedestrians closer to vehicular traffic, is not appropriate. A new Support statement is also adopted referencing the applicable sections for channelizing lines, edge lines, and diagonal markings, which can be used to modify the street or highway design (*e.g.,* horizontal alignment, traveled-way width, sight distance, or similar) for speed management and channelizing, but the marked area is retained as part of the roadway rather than be redesignated as a pedestrian space.

Several additional Guidance, Option, and Support paragraphs in Section 3J.07 that were proposed in the NPA are adopted with significant edits and clarifications in the final rule to provide context and considerations to improve vulnerable road user safety and provide accessibility, particularly for individuals with low visual acuity or other vision disabilities. While FHWA agrees that accessibility concerns should be considered for these areas, defining the conditions under which accessibility infrastructure is or is not required is beyond the scope of the MUTCD and would be covered either explicitly or implicitly under other regulations, such as accessibility standards that may be adopted by DOT or DOJ under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973. In response to comments, and consistent with definitions contained within the MUTCD, an additional Standard is adopted in the final rule prohibiting the extension of crosswalk markings through sidewalk extensions designated by pavement markings, which would represent that the area is still part of the roadway, rather than an extension of the sidewalk. Extending the crosswalk markings through this area would be confusing to individuals with low visual acuity who rely on the crosswalk markings as one of the cues to confirm that they have left the sidewalk and entered the street where vehicular traffic is present. However, the proposed Guidance recommending that adequate provisions be made for pedestrians with disabilities through the sidewalk extension, between the physical curb ramp and the start of the crosswalk at the new edge of the traveled way as designated by the pavement marking, is

not adopted as this is outside the scope of the MUTCD. In addition, the recommendation to use colored pavements in sidewalk extensions where pedestrian travel is expected is not adopted as this area is outside of the traveled way, and the details of the type of surface treatment used, if any, would not be subject to the provisions of the MUTCD except where it meets the pavement marking that defines the limits of the pavement open to vehicular travel. Accordingly, FHWA adopts a requirement that if aesthetic surface treatments are used in sidewalk extensions, they shall not be retroreflective as they are not traffic control devices.

Comments were received that question the stipulation that the right-of-way is dedicated exclusively to highway-related functions, which undermines ''placemaking'' efforts. The proposed language was a reference to existing regulations that codify requirements related to the use of highway right-of-way.[26] Notwithstanding, in response to comments, FHWA does not adopt the NPA proposed Guidance recommending that a policy for using aesthetic surface treatments in crosswalks should be considered if an agency determines that the use or design is appropriate for the right-of-way, since these treatments are adequately addressed in other provisions. Similarly, the Guidance recommending a speed limit threshold for which aesthetic crosswalk treatments should only be considered is not adopted. To ensure that the safety of road users remain the primary consideration, two additional Standards are adopted requiring that aesthetic surface treatments not interfere with traffic control devices, and that the colors used for aesthetic surface treatments not be standard traffic control device colors. The proposed Standard requiring aesthetic surface treatments not be of a surface that can confuse vision-impaired pedestrians that rely on tactile treatments or cues for navigation is adopted with editorial revision. Additional Guidance is also adopted in the final rule with recommendations to provide a gap between standard markings delineating areas and aesthetic surface treatments such that contrast is provided and the treatments do not interfere with traffic control devices. The proposed Standard prohibiting the use of advertising, pictographs, symbols, multiple color arrangements, and retroreflectivity in patterns that constitute a purely aesthetic surface treatment is revised with a prohibition on advertising and retroreflectivity retained in the Standard. Guidance is adopted to recommend against the use of pictographs and symbols with an additional recommendation not to use illusions. The proposed Support statements relating to materials for aesthetic surface treatments within the limits of crosswalks are also adopted with revision; specifically, paving materials such as setts or cobbles are removed, and Support is added relating to the surface of the crosswalk, the needs of pedestrians, and the requirements of the U.S. Department of Justice 2010 ADA Standards for Accessible Design.[27]

Comments questioned the need for the Standard statement requiring aesthetic treatments to be designed such that they do not encourage road users to loiter or linger in the crosswalk, engage in the pattern, or otherwise not vacate the street in an expedient manner. The FHWA disagrees that the Standards and Guidance placing limitations on aesthetic treatments are unfounded as road user safety is the primary concern and visual distractions to vehicle operators in general are known to be a potential safety risk, especially to vulnerable road users. Many of the surface treatments that have been used are designed to draw the attention of road users to the treatment and, therefore, away from navigating the roadway environment. Thus, without adequate research data to determine the actual safety risk of different types of treatments, FHWA believes it is necessary to limit the use of surface treatments to ensure vulnerable road user safety. Where such treatments were being considered as a measure to improve pedestrian safety, FHWA believes the appropriate measure, instead, is to use one of the high-visibility crosswalk patterns, which are supported by research for visibility and conspicuity, strengthening the provisions for the protection of vulnerable users, consistent with section 11135 of BIL.

Part 4. Highway Traffic Signals

Accessibility

In an effort to improve accessibility to provide for the protection of vulnerable road users while not getting ahead of the then-pending PROWAG rulemaking, FHWA proposed numerous changes to improve accessibility in Parts 4 and 6. In Part 4, the proposed changes were to recommend, rather than provide an option, to use accessible pedestrian signals (APS) at all pedestrian signals, including pretimed traffic control signals or non-actuated approaches as well as at pedestrian hybrid beacons (PHB). Further, FHWA proposed to recommend the use of an audible information device (AID) at rectangular rapid flashing beacons, pedestrian-actuated warning beacon, and in-roadway warning lights at crosswalks.

In Part 6, FHWA proposed to add a new requirement in accordance with 28 CFR 35.160(a)(1) to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. In addition, FHWA proposed to revise several Standards to remove text related to ''where pedestrians with disabilities normally use'' or ''where it is determined that the accommodations of pedestrians with disabilities is necessary'' to strengthen requirements for accessible features and remove ambiguity on when they should be implemented. The proposed changes in Part 6 were slightly broader than proposed changes in Part 4 because changes for temporary traffic control devices are easier for agencies to adopt since the devices are temporary and are purchased and installed as part of an active construction or maintenance project.

The FHWA received a large number of comments related to the proposed changes encouraging the incorporation of PROWAG and to strengthen accessibility requirements. The comments stated that FHWA should adopt positions of greatly increased accessibility requirements similar to what was anticipated in the final rule for PROWAG. Other commenters, including many State DOTs and local agencies opposed significant accessibility changes based on their concerns with the cost impact and the significant level of effort to implement widescale increased accessibility measures, especially if there was not a demonstrated need for such accommodations at a specific location. The FHWA notes that at the time of publication of the NPA, the U.S. Access Board had not concluded its rulemaking and the provisions of a potential final rule were unknown. The U.S. Access Board has since finalized its rulemaking process for PROWAG (88 FR 53604, August 8, 2023; effective date September 7, 20203). Therefore, FHWA did not have the opportunity to seek public comment on adopting the provisions of the PROWAG final rule during the course of this rulemaking. As such, FHWA only adopts the proposed

[26] 23 CFR 1.23(b).

[27] September 15, 2010. 28 CFR 35 and 36, Americans with Disabilities Act of 1990.

NPA revisions that strengthen the provisions for the protection of vulnerable users, consistent with section 11135 of BIL. The FHWA anticipates the MUTCD undergoing further rulemaking to address sections affected by the final PROWAG. In the meantime, DOT has initiated a rulemaking to incorporate the PROWAG into the ADA regulations of the Office of the Secretary of Transportation.[28]

Traffic Control Signal Needs Study (Reexamine Signal Warrants and Changing Signal Warrants From Standard to Guidance)

In the NPA, FHWA proposed to change all paragraphs describing the application of the traffic signal warrant criterion to be considered in an engineering study for installing a new traffic control signal from Standard to Guidance. The FHWA proposed this change to provide agencies flexibility in performing signal warrant analyses.

There were many comments for and against the change from Standard to Guidance. Commenters who supported the change agreed agencies would have more flexibility to consider ''other factors'' rather than the perceived heavy reliance placed on the numerical analysis. In their opinion, this leads to many agencies refusing to consider a traffic control signal in cases where a signal may be deemed beneficial, but the volume warrants are not met. Commenters who opposed the change were concerned with the cost impact associated with receiving pressure to install new signals where signals may not be appropriate. While not proposed in the NPA, FHWA received several comments stating that there is a need to rethink all traffic signal warrants believing them to be outdated and based on consensus rather than research. The FHWA notes that additional research is in progress through a National Cooperative Highway Research Program (NCHRP) study [29] examining updates to the vehicular and pedestrian volume thresholds for traffic control signals, pedestrian hybrid beacons, and other pedestrian-actuated warning devices. In addition to pedestrian and vehicular volumes, the research is also examining latent pedestrian demand, land-use, and context to develop additional tools to assist in determining the appropriate traffic control device to improve safety for pedestrians. Following the issuance of this final rule, FHWA will explore opportunities for new research to reexamine the remaining signal warrants for potential updates and will consider research-based updates to a future revision to the MUTCD or through Interim Approval, as appropriate.

The FHWA adopts the NPA proposed signal warrant language change from Standard to Guidance to reinforce that other factors, beyond the warrants, be considered as part of the engineering study to justify installation of traffic control signals. With this revision, agencies will have more flexibility to consider other relevant factors in addition to reliance on the numerical warrants analysis alone. While there is concern from some commenters who opposed the change that there could be increased costs associated with installing more traffic control signals and increased pressure to install new signals where they might not be appropriate, the adopted text provides agencies the necessary flexibility to consider all relevant factors in determining the need for a traffic control signal. The safe and efficient movement of all road users is the primary consideration in the engineering study to determine whether a traffic control signal should be installed rather than some other type of control or roadway configuration. Control by a traffic signal does not necessarily result in improved safety in every case. In some cases, a traffic signal at an inappropriate location could adversely impact safety for one or more road users. The purpose of the engineering study is to evaluate all relevant factors based on the specific location. The warrants are elements of the engineering study along with any other relevant factors. These additional considerations form the basis for conducting an engineering study and the results of the warrants analysis portion of the study is not intended to be the only or the overriding consideration. Agencies can, in fact, install a traffic control signal if a warrant is not met, but they are required to conduct the engineering study that demonstrates that the installation of a signal will improve the overall safety and/or operation of the intersection, which includes documentation of the rationale (*i.e.,* the warrants analysis and consideration of other factors).

Signal Warrants—Crash Warrant

In Section 4C.08 Warrant 7, Crash Experience, FHWA proposed to revise Item B in Paragraph 2 to include updated signal warrant criteria for 1-year and 3-year periods, crash type, and severity, as well as major street speed and intersection location (urban vs. rural context).

In conjunction with this change, FHWA proposed to add additional Support language regarding the critical minor-street volume, and a new Option paragraph that accompanies new tables related to criteria for considering traffic control signals in rural areas. The FHWA proposed these changes based on Interim Approval 19 and findings contained in NCHRP Project 07–18, ''Crash Experience Warrant for Traffic Signals.'' The research resulted in updated criteria, which is based on either 1 year or 3 years of recent crash experience, for the number of crashes portion of Warrant 7.

Comments included a mixture of support and concern. Some commenters suggested that this approach is not consistent with Vision Zero and Safe System approaches in that it is reactive instead of proactive. For rural intersections, there also was concern the threshold for the number of crashes increased over the existing threshold in the 2009 MUTCD. Other commenters (primarily State DOTs) expressed concerns the lower thresholds for urban settings may result in the overuse of signals and disregard for using other safety alternatives at intersections. The commenters who supported the change appreciated that the values were updated based on research and noted that the various thresholds and tables provided engineers more flexibility to perform the signal warrant study.

The FHWA adopts the revisions to Warrant 7 in the final rule. Based on comments received, FHWA adds an Option in the final rule allowing agencies to calibrate Highway Safety Manual safety performance functions (SPFs) to their own crash data or develop their own SPFs to produce agency specific average crash frequency values. When documented as part of the engineering study, these agency specific crash frequency values may be used instead of the values shown in Tables 4C–2 through 4C–5 when applying the Crash Experience signal warrant.

Pedestrian Signals at Signalized Intersections

In Section 4D.02, Provisions for Pedestrians, FHWA proposed in the NPA to add a new Guidance statement recommending pedestrian signal heads at each marked crosswalk controlled by a traffic control signal. The installation of pedestrian signal heads at intersections controlled by a traffic control signal is currently at the

[28] See U.S. Department of Transportation, Office of the Secretary of Transportation: Transportation for Individuals With Disabilities; Adoption of Accessibility Standards for Pedestrian Facilities in the Public Right-of-Way (RIN 2105–AF05).

[29] NCHRP 03–143, Framework and Toolkit for Selecting Pedestrian Crossing Treatments, can be viewed at the following Web address: *https://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=5125*.

discretion of the agency. Agencies may exercise engineering judgement to determine if pedestrian signal heads are needed, or if a vehicular signal face for a concurrent vehicle movement, and visible to pedestrians, is sufficient.

The FHWA received numerous comments (including from multiple State DOTs and cities) suggesting strengthening the proposed Guidance to a Standard to require, rather than recommend, pedestrian signal heads if marked crosswalks are present at signalized intersections. A smaller number of commenters supported the addition of the new Guidance as proposed.

The FHWA adopts the NPA proposed Guidance that recommends the installation of pedestrian signal heads for each marked crosswalk controlled by a traffic control signal and also adopts the NPA proposed Option that allows agencies to apply engineering judgment to use pedestrian signal heads under other conditions. Based on the comments suggesting pedestrian signal heads be required at all signalized intersections, FHWA will consider for a future rulemaking after further evaluation of the potential implications and benefits. This issue may also be revisited based on the PROWAG rulemaking by the U.S. Access Board. These changes are being adopted to improve the protection of vulnerable users consistent with Section 11135 of BIL.

Accessible Pedestrian Signals Engineering Study Requirement

In Section 4I.01 (existing Section 4E.01) Pedestrian Signal Heads, FHWA proposed in the NPA to modify Paragraph 2 to better align with the recommendation for an engineering study with specific factors for consideration as outlined in Section 4K.01.

The intent of the proposed NPA text was misinterpreted by many reviewers. There were many comments pointing out that an engineering study should not be required before installing APS. Many commenters suggested APS should be installed at all traffic control signals and PHBs where pedestrian signal heads are used, and that agencies should not have to justify the need for APS by conducting an engineering study based on the factors listed in Section 4K.01.

Upon consideration of all comments received, FHWA is removing all text from the MUTCD discussing when APS ''should'' be considered or provided. The decision of when to use APS is subject to requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Notably, since the 2009 edition of the MUTCD, multiple courts have recognized that the ADA and Rehabilitation Act require jurisdictions to make their pedestrian signals accessible. *See Am. Council of Blind of Metro. Chicago* v. *City of Chicago,* No. 19 C 6322, __F. Supp. 3d __, 2023 WL 2744596, at **6–8 (N.D. Ill. Mar. 31, 2023); *Am. Council of Blind of New York, Inc.* v. *City of New York,* 495 F. Supp. 3d 211, 232–38, 241–42 (S.D.N.Y. 2020); *Scharff* v. *Cnty. of Nassau,* No. 10 CV 4208 DRH AKT, 2014 WL 2454639, at *12 (E.D.N.Y. June 2, 2014). As with other sections of the MUTCD that address certain accessibility issues, FHWA refers users to the applicable ADA and Rehabilitation Act requirements and limits discussion of APS to technical specifications. The MUTCD does, however, include language in Support statements with information about the importance of APS in general and, in particular, at certain kinds of crossings.

Warrants for Pedestrian Hybrid Beacons

In Section 4J.01 (Section 4F.01 of the 2009 MUTCD) Application of PHB, FHWA proposed to add a new Option to allow the reduction of the signal warrant criteria for pedestrian volume crossing the major street by as much as 50 percent if the 15th-percentile crossing speed of pedestrians is less than 3.5 feet per second. The FHWA proposed this change for consistency with traffic control signal Warrant 4, Pedestrian Volume.

The FHWA also proposed to add an Option to allow the separate application of the major-street traffic volumes criteria in each direction when there is a divided street having a median of sufficient width for pedestrians to wait in accordance with Official Ruling No. 4(09)–25 (I) [30] and for consistency with the proposed change in Section 4C.05.

While the NCUTCD and engineering organizations agreed with the proposed changes in the NPA for Section 4J.01, the majority of the comments were related to the current MUTCD text regarding the volume thresholds, where no revisions were proposed. General themes of the comments included: (1) Suggestions to add other warrants or factors such as distance to adjacent pedestrian crosswalks, crash experience, using FHWA's Guide for Improving Safety at Uncontrolled Crossing Locations [31] surrounding land use and density, and using FHWA's Safe Transportation for Every Pedestrian (STEP) guidance,[32] (2) Changes to the minimum thresholds in Figures 4J–1 and 4J–2, and (3) Adding Guidance that aims to make major streets safe to cross at regular intervals by establishing Guidance on the distance people can be expected to walk to get to a crosswalk.

The FHWA retains the NPA language, including the existing vehicular and pedestrian volume threshold figures, based on the following considerations. The PHBs are addressed in the FHWA Proven Safety Countermeasure Initiative (FHWA–SA–21–045) [33] as a safety strategy to address pedestrian crash risk. The PHB is an intermediate option between a flashing beacon and a full pedestrian signal because it assigns right-of-way and provides positive stop control. It also allows motorists to proceed once pedestrians have cleared their side of the travel lane(s), reducing vehicle delay and congestion, often in urban conditions where congestion can impact the quality of life of surrounding residents and business owners.

In response to comments suggesting changes that were not proposed in the NPA, the existing vehicular and pedestrian thresholds were determined based on research and are substantially lower than the pedestrian volume warrants for a traffic control signal, primarily due to the trade-off in efficiency since vehicular traffic can move during the flashing red interval (concurrent with flashing Don't Walk) if the crosswalk is clear. Further, the NPA added new Options to provide more flexibility in justifying the installation of PHBs with a significant reduction in the threshold volumes based on lower walking speeds and the consideration of other factors that may support the installation of PHBs at locations where the thresholds are not met. These proposed Options are adopted in this Final Rule.

An NCHRP study [34] is underway that will review the existing volume thresholds and make recommendations on pedestrian warrants based on many scenarios for PHBs as well as traffic control signals and pedestrian actuated warning devices. This information will

[30] FHWA's Official Ruling No. 4(09)–25 (I), ''Application of the Pedestrian Volume Warrant on Divided Roadways,'' can be viewed at the following Web address: *https://mutcd.fhwa.dot.gov/resources/interpretations/4_09_25.htm.*

[31] *https://www.fhwa.dot.gov/innovation/everydaycounts/edc_5/docs/STEP-guide-improving-ped-safety.pdf.*

[32] *https://highways.dot.gov/safety/pedestrian-bicyclist/step.*

[33] *https://highways.dot.gov/safety/proven-safety-countermeasures/pedestrian-hybrid-beacons.*

[34] NCHRP 03–143, Framework and Toolkit for Selecting Pedestrian Crossing Treatments, can be viewed at the following Web address: *https://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=5125.*

be used to consider revisions to vehicular and pedestrian volume thresholds in a future edition of the MUTCD.

The FHWA believes the provisions, as adopted, further FHWA's statutory obligation under Section 11135 of BIL to provide for the protection of vulnerable road users by providing more flexibility for engineers to justify installation of PHBs.

Emergency Vehicle Preemption

In new ''Section 4F.19 Preemption Control of Traffic Control Signals'' consisting of paragraphs from Section 4D.27 of the 2009 MUTCD, FHWA proposed to revise the Standard regarding preemption control transitions to remove the current provision that allows the pedestrian change interval to be truncated during emergency vehicle preemption. The current provision potentially exposes vulnerable road users to great risk if they are crossing the street and their pedestrian indication is terminated mid-crossing to permit the signal to change to green on that approach in preparation for an approaching emergency response vehicle. The FHWA proposed this change to enhance the protection of vulnerable road users during emergency preemption operations at traffic control signals. Truncating the pedestrian change interval would still be allowed only when the traffic control signal is being preempted because a boat is approaching a movable bridge or because rail traffic is approaching a grade crossing, as emergency vehicles and buses generally have the ability to slow, stop, or alter their course if necessary to avoid a collision, which is not the case of boats and rail traffic.

The FHWA received many comments on different sides of the issue. Some commenters supported the change since the existing method could potentially compromise pedestrian safety if pedestrians had not cleared the crosswalk during the transition into preemption control. Other comments opposed the change saying the effectiveness of the emergency vehicle preemption will be greatly diminished or made completely ineffective due to increased delay, especially in congested conditions. Some comments suggested the requirement did not go far enough in that it continued to allow pedestrian change interval to be preempted for signals associated with boat and rail traffic. The FHWA believes there is insufficient data on the magnitude of these potential issues and therefore does not adopt the proposed Standard that would prohibit the truncation of the pedestrian change interval during the transition into preemption control. Also, FHWA revises the existing Standard and adds an Option to further clarify what is allowed and what is prohibited by the existing provisions.

Bicycle Signal Faces at Pedestrian Hybrid Beacons

The FHWA proposed a prohibition of bicycle signal faces at pedestrian hybrid beacons in a new Chapter 4H, consistent with Interim Approval 16 (IA–16), which states, ''bicycle signal faces shall not be used in any manner with respect to the design and operation of a pedestrian hybrid beacon.'' [35] Though comments varied on this change, a number of commenters expressed concern that such a change would leave no solution to improve safety for bicyclists. However, the change is actually intended to address the fact that bicyclists are vulnerable road users and that they benefit from applying a safe system approach, which is to separate them in time and space from conflicting traffic movements. Where the crossing is a shared-use path or bicycle traffic is otherwise expected, the use of the PHB could contravene this approach. This specific issue is discussed in detail in this section.

Some of the commenters supported the proposed text to prohibit bicycle signal faces at PHBs, including some city and State transportation agencies. However, a number of the public comments opposed the prohibition of bicycle signal faces at PHBs, noting that some agencies currently have these in operation (Portland, Oregon; and Phoenix and Tucson, Arizona.) without any known safety issues. Some commenters suggested that the prohibition of bicycle signal faces with a PHB would not allow for bicycle movements (since bicyclists are not pedestrians) when PHBs are used at neighborhood bikeway or trail crossings. Other commenters noted the known problem with bicycles entering crosswalks controlled by PHBs during the flashing red and flashing Don't Walk interval, suggesting that this conflict can be addressed by allowing bicycle signal faces.

The FHWA retains the NPA language that prohibits bicycle signal faces at PHBs based on the following considerations. Intersections of streets and shared-use paths are a vehicle-vehicle intersection because bicycles operate as vehicles in this situation. The PHB was developed as a pedestrian-specific device based on representative pedestrian behavior and characteristics. A pedestrian-type traffic control would not be appropriate for bicycle traffic operating as vehicles with much higher relative speeds than pedestrians and therefore violates road user expectancy and introduces a safety risk for bicyclists due to the manner in which the clearance interval operates. The clearance interval for a PHB allows roadway traffic to proceed after stopping during the flashing red interval as pedestrians clear the crosswalk during the flashing Don't Walk interval. The slower speed of pedestrians provides for visibility of pedestrians and adequate detection time by the vehicle operator, in contrast with the relatively higher speed of bicycle traffic that might enter the crossing more suddenly.

The FHWA notes that the suggestion that bicycle traffic would not be allowed at a crossing with a PHB absent a bicycle signal face tends to disregard the fact that other treatments could be considered to accommodate the safe mobility of bicyclists. Further, each traffic control device is developed for specific purposes. Therefore, it is not correct to assume generally that any traffic control device can be applied in any condition or be adapted to conditions for which it was not intended without evaluation of its efficacy under those conditions that differ, including for differences in the types of road users and their distinct behaviors and needs. The PHB is an intermediate solution between a flashing beacon and a full signal because it assigns right-of-way and provides positive stop control, but then allows roadway traffic to proceed once pedestrians have cleared their side of the travel lane(s), reducing vehicle delay and congestion, often in urban conditions where congestion can impact the quality of life of surrounding residents and business owners. In the absence of a similar intermediate option for bicycles operating as vehicles, operation of a fully signalized crossing is a potential solution, with little difference in the infrastructure compared with a PHB. The FHWA believes that an agency would decide to prioritize safety considerations for bicyclists as vulnerable road users over congestion or delay concerns for roadway traffic in such a case. These considerations are part of the process for determining the potential effects on the surrounding community environment, including residents and business owners.

In practice, some of the agencies that have installed bicycle signals with PHBs, as referenced by commenters, have done so in a manner that violates

[35] Interim Approval 16 can be accessed at the following Web address: *https://mutcd.fhwa.dot.gov/resources/interim_approval/ia16.*

the provisions of the MUTCD for the operation of the PHB, shortening the flashing red interval to a mere few seconds while extending the steady red, allowing the pedestrian clearance (flashing Don't Walk) interval during the steady red facing roadway traffic (along with the green and yellow bicycle signal intervals). In effect, these agencies are operating the PHBs as full signals, but have modified their phasing in a noncompliant manner in order to circumvent the warrants for a traffic control signal. As described earlier, an agency may decide that a full signal is the appropriate solution at a shared-used path crossing if there is appreciable bicycle demand. Further, the noncompliant operation of the PHB presents expectancy violations to both the pedestrian and roadway vehicle operator, potentially putting vulnerable road users at risk. The FHWA believes the provisions, as adopted, meet FHWA's statutory obligation under Section 11135 of BIL to provide for the protection of vulnerable road users to the extent practicable based on available research on the operation of PHBs as a pedestrian safety treatment.

Following the issuance of this final rule, FHWA will seek opportunities to explore and evaluate data on variations in PHBs that might safely accommodate bicycle signal face use at crossings and, potentially, new research on this topic as might be determined necessary to evaluate such factors as the appropriate clearance interval, adequate separation of pedestrians and bicyclists at the signal, actuation of the bicycle signal, and representative bicyclist and driver behavior at various types of signal indications or combinations thereof.

Finally, as emphasized previously, roadway owners have the authority to consider other treatments to accommodate the safe mobility of bicyclists, whether traffic control devices whose applications comply with the MUTCD, or other strategies, such as geometric or roadway configuration changes.

Part 5. Automated Vehicles

Part 5 in the NPA was retitled for Automated Vehicles (AV) and included all new content. (In the NPA, the provisions for Low-Volume Roads in Part 5 of the 2009 MUTCD were proposed for integration into the other parts of the MUTCD.) The purpose of this new part is to provide agencies with general considerations for vehicle automation as they assess their infrastructure needs, prepare their roadways for AV technologies, and to support the safe integration of AVs. The NPA proposed two chapters for Part 5, with a third chapter reserved for future considerations. The first chapter, Chapter 5A, covered the purpose and scope, the definition of terms and other general information on design and use considerations for roadways intended to accommodate AVs operations. Chapter 5B ''Provisions for Traffic Control Devices'' contains six sections providing provisions beneficial to AV operations on signs, markings, traffic signals, and temporary traffic control, as well as traffic control at railroad and light rail transit grade crossings, and on bicycle facilities.

The overarching comments on this Part ranged from general support to concerns it will create a cost burden on transportation agencies and suggesting the removal of the Part. Other comments proposed moving the elements of Part 5 directly into the applicable chapters of the MUTCD (Parts 2, 3, 4, 6, 8, and 9). Comments in opposition to Part 5 as a whole or recommending the provisions in Part 5 simply be moved into the other chapters of the MUTCD, indicate confusion by commenters on the intended purpose of adding Part 5 to the MUTCD. The intended purpose of Part 5 is to identify traffic control device considerations for AVs operations on roadways specifically being designed to accommodate these vehicles.

There were also comments on the technical basis of some provisions. Some commenters questioned the need for a prescribed light-emitting diode (LED) refresh rate for electronic message signs and traffic signals, as well as graphical markings on signs intended to be recognizable by vision-based driving automation systems to enhance sign recognition by these systems. Also, there were comments received on the proposed Standard and Guidance statements in Section 5B.04 that described the use and removal of pavement markings in work zones. Commenters noted that the provisions in this section were redundant or in conflict with similar provisions in Chapter 6J of the Manual.

The FHWA adopts the new Part 5 with modified Support language emphasizing that Part 5 contains provisions that are exclusively for those agencies seeking to better accommodate driving automation systems to support AVs, and therefore are not specifically for consideration on other roadways. This change is done to address the confusion suggesting the provision in this Part will necessarily increase agency costs. In alignment with this change, the title is changed to ''Traffic Control Device Considerations for Automated Vehicles'' to more accurately reflect the contents of this new Part.

To address a safety concern of a technology brought up by commenters that could negatively impact recognition and legibility of signs by human drivers, FHWA adds a Standard stating that when scanning graphics of any type are used on a sign for support of driving automation systems, the scanning graphics shall not be visible to the human eye and the sign shall have no apparent loss of resolution or recognition to road users. Also, in response to comments, the final rule deletes specifications regarding refresh rates and instead indicates that agencies should consider the refresh rate of LEDs on CMS. This language will allow agencies to use the refresh rate that is most appropriate for the prevailing driving automation systems technologies as this technology advances.

Also, in response to comments, sections within Chapter 5B are restructured to more clearly state the specific traffic control device provisions. Further, in response to comments, the proposed Standards in Section 5B.04 regarding the use and removal of pavement markings in work zones are removed in this final rule, as they are redundant to similar provisions in Chapter 6J. Two new Support statements are added that reference the appropriate provisions in Sections 6J.01 and 6J.02 regarding the use and removal of pavement markings in work zones. The proposed Standard requiring the removing or obliterating pavement markings that are no longer applicable as soon as practicable is changed to Guidance to be consistent with similar provisions in Section 6J.01. Also, an additional Support statement is added that emphasizes the potential for misinterpretation by driving automation systems of pavement markings not fully removed or removed in a manner that causes pavement scarring, which can facilitate erroneous vehicle positioning in work zones. The new Part 5 addresses the requirement in BIL to update the MUTCD for the safe integration of AVs onto public streets.

Part 8. Traffic Control for Railroad and Light Rail Transit Grade Crossings

Diagnostic Team

In the NPA, FHWA proposed Standards, Guidance, and Options in Part 8 that define the Diagnostic Team and its role in determining the appropriate traffic control devices at grade crossings. The language in the NPA was proposed to be consistent with 49 CFR part 222 (a Federal Railroad Administration regulation) and because there are many variables to be

considered and multiple entities that need to be engaged to evaluate and implement traffic control devices at grade crossings. Depending on the crossing location, these entities include agencies representing the highway, railroad, transit, and a regulatory agency with statutory authority (when applicable).

Comments on the NPA noted that in some States, the State or the regulatory agency holds statutory authority for approval of traffic control devices at grade crossings and therefore the Diagnostic Team could evaluate but would not approve the grade crossing traffic control devices. Commentors also expressed confusion over the types of changes that necessitate convening a Diagnostic Team and concern with the challenges of assembling a Diagnostic Team. Some comments also suggested that all references to the Diagnostic Team be removed from Part 8. Other commenters, including organizations representing large numbers of members supported the text proposed in the NPA.

The FHWA incorporates editorial revisions in the final rule to clarify the role of the Diagnostic Team, which is to evaluate and recommend traffic control devices. These revisions are made to avoid conflicts with State statutes that give approval authority to the State or to the regulatory agency with statutory authority. The revisions also provide a more complete list of the types of changes that require the Diagnostic Team to conduct an engineering study. The Option statement proposed in the NPA clarifies that general maintenance activities and minor operational changes may be made without review by a Diagnostic Team. In the final rule, FHWA also moves the reference to quiet zones to an Option statement because 49 CFR part 222 does not require a Diagnostic Team review to establish a quiet zone, but they may conduct an engineering study and recommend that a quiet zone be considered by the responsible public authority.

Part 9. Traffic Control for Bicycle Facilities

Bicycles as Vehicles

State and local laws and ordinances define where it is legal to ride a bicycle. Roadway owners and local communities may choose land use or facility design to promote bicyclist safety. The MUTCD, however, governs the traffic control devices and markings used on those facilities to improve bicyclist safety and mobility wherever State and local authorities have deemed it legal to ride on a bicycle.

In the NPA, FHWA proposed to add Support to Section 9A.01 stating that with few exceptions, such as when allowed to ride on a sidewalk or where some bicycle-specific traffic control devices are installed, bicycles are either legally defined as vehicles or a bicyclist is legally assigned the same rights and duties of an operator of a motor vehicle as governed by State and local law. The FHWA received several comments stating that the proposed Support language was overly broad and cited examples of where various State laws did not reflect what the proposed Support language was asserting.

The FHWA agrees with the commenters and revises the Support language to focus exclusively on bicyclist operation on roadways, rather than where it might be allowed on sidewalks or other facilities. The FHWA believes these provisions will help strengthen the protection of vulnerable users consistent with Section 11135 of BIL.

Two-Stage Bicycle Turn Box

The FHWA proposed to add a new Section in Chapter 9B on regulatory signing for Two-Stage Bicycle Turn Boxes that includes Support, Standard, and Options. The Standards defined conditions for which a two-stage turn box shall be provided and corresponding regulatory signs necessary to convey that information. The Option allowed for an appropriately sized Street Name sign to be installed with the All Turns From Bike Lane sign to identify the cross street where the turn box will be available.

Commenters suggested the proposed Standard defining specific conditions when a two-stage bicycle turn box is required be changed to Option and those conditions be modified to provide further clarity. Commenters also requested that the Standards requiring specific regulatory signs be used when bicyclists are being legally required to use a two-stage bicycle turn box be changed to Guidance. Similarly, commenters recommended the Standards requiring the mounting location of these regulatory signs also be changed to Guidance. Based on these comments and further review, FHWA changes the Standard that defined specific conditions when a two-stage bicycle turn box would be required to a Support statement that simply describes certain situations where a two-stage bicycle turn box can be used to facilitate bicycle turning movements. In alignment with this change, FHWA provides clarifying modifications to the description of those situations.

The FHWA retains the Standards requiring specific regulatory signs be used when bicyclists are required to use a two-stage bicycle turn box and the Standards requiring the appropriate mounting location of these signs. The FHWA retains these Standards to ensure bicyclists have this necessary regulatory information on the jurisdictional prescribed use of the bicycle turn box. These Standards will help ensure the safety of bicyclists and reduce conflicts between bicyclists and other traffic.

Also, to address a vehicle movement conflict that could compromise the safety of bicyclists, FHWA adds new Guidance that two-stage bicycle turn boxes should be located outside of the path of right-turning vehicle traffic, and where a turn box is located within the path of right-turning vehicle traffic, a NO TURN ON RED (R10–11) sign should be used.

The FHWA believes these provisions will help strengthen the protection of vulnerable users consistent with Section 11135 of BIL.

Bend-Outs at Intersections

In the NPA, FHWA proposed to add Support, Option, and Guidance statements in Section 9E.02 related to the shifting of buffer-separated or separated bicycle lanes. The Option allows for bicycle lanes to be shifted closer to or further away from the adjacent general-purpose lane. The Guidance indicates the bicycle lanes should not be shifted away from the general-purpose lane unless there is sufficient space for a vehicle to queue between the general-purpose lane and extension of the bicycle lane.

Many commenters opposed the Guidance statement that a buffer-separated or separated bicycle lane should not be shifted away from the adjacent general-purpose lane at an intersection unless there is sufficient space for a vehicle to queue between the general-purpose lane and the extension of the bicycle lane. Commenters stated that it went counter to best practices and there was sufficient experience to show it to be safe practice. In consideration of the comments received and further review, FHWA is not adopting this proposed Guidance statement. Rather, FHWA is adding a Support statement that shifting a bicycle lane away from a general-purpose lane at an intersection can create space for vehicles to queue and has safety benefits. This change provides more flexibility and FHWA believes these provisions will help strengthen the protection of vulnerable users consistent with section 11135 of BIL.

Counter-Flow Bike Lanes

In the proposed new Section 9E.08 Counter-Flow Bicycle Lanes, FHWA proposed a Standard prohibiting locating a counter-flow bicycle lane between the general-purpose lane and on-street parallel parking lane for motor vehicles. This prohibition was added due to safety concerns for bicyclists as a motorist may not have line of sight of oncoming bicyclists when maneuvering their parked vehicle to reenter the general-purpose travel way, which would require crossing the counter-flow bicycle lane with potentially very limited visibility.

Commenters suggested that the proposed Standard which would prohibit locating a counter-flow bike lane between a general-purpose lane and an on-street parallel parking lane would preclude situations when it is impractical to locate the lane elsewhere, such as between the curb and the parking lane. Commenters further suggested that locating the counter-flow bicycle lane between a general-purpose lane and an on-street parking lane has been done in a number of municipalities without documented safety issues.

The FHWA agrees that there may be situations where it would be impractical to locate a counter-flow elsewhere as local agencies may have limited options for creating and maintaining connected bicycle networks. However, placing bicycle lanes between the curb and an on-street parallel parking lane provides bicyclists a buffer from motor vehicle traffic to improve safety. Considering this, FHWA changes this Standard to Guidance, which will allow for engineering judgment or study to determine when it might be necessary to locate a counter-flow bike lane adjacent to the general-purpose lane. The FHWA believes this provides sufficient flexibility to agencies in designing their bicycle facilities while meeting FHWA's statutory obligation under Section 11135 of BIL to provide for the protection of vulnerable road users.

Termination of Interim Approvals

In addition to the changes adopted in the 11th Edition of the MUTCD, FHWA terminates the Interim Approvals for those provisional devices or applications that have been incorporated into this final rule, either in whole or part. Agencies that had received Interim Approval for those items listed are released from the requirement to maintain and update a list of locations at which the provisional devices or applications have been implemented. Any future installations of the device or application previously subject to Interim Approval must comply with the provisions as stated in the 11th Edition of the MUTCD, and any provisions in the Interim Approval that conflict with the provisions adopted in the 11th Edition of the MUTCD are no longer valid. Existing installations that do not comply with the provisions adopted in the 11th Edition of the MUTCD must be brought into compliance by the compliance date established in this final rule, if applicable, or through systematic replacement and upgrade of traffic control devices if a compliance date is not specified. The following Interim Approvals are terminated with this final rule:

Interim approval	Title	Date Issued
IA–5	Clearview Font for Positive-Contrast Legends on Guide Signs (Reinstated)	3/28/2018
IA–12	Traffic Signal Photo Enforced Signs	11/12/2010
IA–13	Alternative Electric Vehicle Charging General Service Symbol Sign	4/1/2011
IA–14	Green-Colored Pavement for Bike Lanes	4/15/2011
IA–15	Alternative Design for the U.S. Bicycle Route (M1–9) Sign	6/1/2012
IA–16	Bicycle Signal Faces	12/24/2013
IA–17	Three-Section Flashing Yellow Arrow Signal Faces	8/12/2014
IA–18	Intersection Bicycle Boxes	10/12/2016
IA–19	Alternative Signal Warrant 7—Crash Experience	2/24/2017
IA–20	Two-Stage Bicycle Turn Boxes	7/23/2017
IA–21	Pedestrian-Actuated Rectangular Rapid-Flashing Beacons at Uncontrolled Marked Crosswalks	3/20/2018
IA–22	Red-Colored Pavement for Transit Lanes	12/4/2019

Discussion Under 1 CFR Part 51

The FHWA is incorporating by reference the more current versions of the manuals listed herein.

The FHWA's 2009 ''Manual on Uniform Traffic Control Devices for Streets and Highways,'' including Revisions No. 1 and No. 2, dated May 2012, and No. 3 dated August 2022, are replaced with a new edition of the MUTCD (Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 11th Edition, FHWA, December 2023). This document was developed by FHWA to define the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public travel.

The document that FHWA is incorporating by reference is reasonably available to interested parties, primarily State DOTs, local agencies, and Tribal governments carrying out Federal-aid highway projects. The text, figures, and tables of the new edition of the MUTCD incorporating the proposed changes from the current edition are available for inspection and copying, as prescribed in 49 CFR part 7, at FHWA Office of Transportation Operations, 1200 New Jersey Avenue SE, Washington, DC 20590. Further, the text, figures, and tables of the new edition of the MUTCD incorporating changes from the current edition are available on the MUTCD website *http://mutcd.fhwa.dot.gov* and on the docket for this rulemaking. The specific details are discussed in greater detail elsewhere in this preamble.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as amended by the E.O. 14094. Most of the changes in this final rule provide additional guidance, clarification, and optional applications for traffic control devices. The FHWA believes that the uniform application of traffic control devices will greatly improve the traffic operations efficiency and roadway safety. The Standards, Guidance, and Support are also used to create uniformity and to enhance safety and mobility at little additional expense to public agencies or the motoring

public. The rule will not have an annual effect on the economy of $200 million or more. For the substantive revisions for which costs can be quantified, along with the administrative costs, the total estimated cost measured in 2020 dollars is $59.7 million when discounted to 2020 at 7 percent. A copy of the Economic Impact Assessment is available on the docket for this rulemaking. This rule will not adversely affect in a material way the economy, any sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities. These changes do not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of these changes on small entities and has determined that it is not anticipated to not have a significant economic impact on a substantial number of small entities. This final rule adds some alternative traffic control devices and only a very limited number of new or changed requirements. Most of the changes are expanded guidance and clarification information. This rule will primarily affect State and local governments and toll road authorities. The revisions directed by this action can be phased in by the States over specified time periods in order to minimize hardship. The changes made to traffic control devices that would require an expenditure of funds all have future effective dates sufficiently long to allow normal maintenance funds to replace the devices at the end of the material life-cycle. To the extent the revisions require expenditures by the State and local governments on Federal-aid projects, they are reimbursable. The FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires agencies to prepare a written statement, which includes estimates of anticipated impacts, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $177 million, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. The revisions directed by this action can be phased in by the States over specified time periods in order to minimize hardship. The changes made to traffic control devices that would require an expenditure of funds all have future effective dates sufficiently long to allow normal maintenance funds to replace the devices at the end of the material life-cycle. To the extent the revisions require expenditures by the State and local governments on Federal-aid projects, they are reimbursable. This does not impose a Federal mandate resulting in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $177 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism Assessment)

E.O. 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The FHWA analyzed this action in accordance with the principles and criteria contained in E.O. 13132 and determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this final rule would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under E.O. 13175 and determined that it will not have substantial direct effects on one or more Indian Tribes; will not impose substantial direct compliance costs on Indian Tribal governments; and will not preempt Tribal law. Therefore, a Tribal summary impact statement is not required.

Executive Order 12898 (Environmental Justice)

E.O. 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. FHWA has determined that this rule does not raise any environmental justice issues.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this action does not contain collection information requirements for purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it will not have any significant effect on the quality of the environment and is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under the Council on Environmental Quality regulations and under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. The FHWA does not anticipate any adverse environmental impacts from this rule; no unusual circumstances are present under 23 CFR 771.117(b).

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR part 470

Grant programs—Transportation, Highways and roads.

23 CFR part 635

Grant programs—Transportation, Highways and roads, Reporting and recordkeeping requirements.

23 CFR part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Reporting and recordkeeping requirements, Traffic regulations.

Issued on under authority designated in 49 CFR 1.81.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

In consideration of the foregoing, FHWA revises title 23, Code of Federal Regulations, parts 470, 635, and 655, as set forth below:

TITLE 23—HIGHWAYS

PART 470—HIGHWAY SYSTEMS

■ 1. Revise the authority citation for Part 470 to read as follows:

Authority: 23 U.S.C. 103(b)(2), 103(c), 134, 135, and 315; and 49 CFR 1.85.

Subpart A—Federal-Aid Highway Systems

■ 2. Amend Appendix C to Subpart A of Part 470 by

■ a. Revising the section ''Policy'';

■ b. Under ''Conditions'', revising paragraph 5; and

■ c. Removing the section ''Sign Details''.

The revisions read as follows:

Appendix C to Subpart A of Part 470—Policy for the Signing and Numbering of Future Interstate Corridors Designated by Section 332 of the NHS Designation Act of 1995 or Designated Under 23 U.S.C. 103(c)(4)(B)

Policy

State transportation agencies are permitted to erect informational signs along a federally designated future Interstate corridor only after the specific route location has been established for the route to be constructed to Interstate design standards.

Conditions

* * * * *

5. Signing and other identification of a future Interstate route segment must comply with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways.

* * * * *

PART 635—CONSTRUCTION AND MAINTENANCE

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

Authority: Sections 1525 and 1303 of Pub. L. 112–141, Sec. 1503 of Pub. L. 109–59, 119 Stat. 1144; 23 U.S.C. 101 (note), 109, 112, 113, 114, 116, 119, 128, and 315; 31 U.S.C. 6505; 42 U.S.C. 3334, 4601 *et seq.;* Sec. 1041(a), Pub. L. 102–240, 105 Stat. 1914; 23 CFR 1.32; 49 CFR 1.85(a)(1).

■ 4. Amend § 635.309 by revising paragraph (o) to read as follows:

§ 635.309 Authorization.

* * * * *

(o) The FHWA has determined that, where applicable, provisions are included in the PS&E that require the erection of funding source signs that comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, for the life of the construction project, in accordance with section 154 of the Surface Transportation and Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Pub. L. 91–646, 84 Stat. 1894; primarily codified in 42 U.S.C. 4601 *et seq.;*) (Uniform Act).

* * * * *

PART 655—TRAFFIC OPERATIONS

■ 5. Revise the authority citation for part 655 to read as follows:

Authority: 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and, 49 CFR 1.85.

■ 6. Amend § 655.601 by revising paragraph (d)(2)(i) to read as follows:

§ 655.601 Purpose

* * * * *

(d) * * *

(2) * * *

(i) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 11th Edition, FHWA, December 2023.

* * * * *

■ 7. Amend § 655.603 by revising paragraph (b)(1) to read as follows:

§ 655.603 Standards

* * * * *

(b) * * *

(1) Where State or other Federal agency MUTCDs or Supplements are required, they shall be in substantial conformance with the national MUTCD. Substantial conformance means that the State MUTCD or Supplement shall conform as a minimum to the Standard statements included in the national MUTCD. The FHWA Division Administrators and Associate Administrator for the Federal Lands Highway Program may grant exceptions in cases where a State MUTCD or Supplement cannot conform to Standard statements in the national MUTCD because of the requirements of a specific State law that was in effect prior to January 16, 2007, provided that the Division Administrator or Associate Administrator determines based on information available and documentation received from the State that the non-conformance does not create a safety concern. The Guidance statements contained in the national MUTCD shall also be in the State MUTCD or Supplement unless the reason for not including it is satisfactorily explained based on engineering judgment, specific conflicting State law, or a documented engineering study. A State MUTCD or Supplement shall not contain Standard, Guidance, or Option statements that contravene or negate Standard or Guidance statements in the national MUTCD. In addition to a State MUTCD or Supplement, supplemental documents that a State issues, including but not limited to policies, directives, standard drawings or details, and specifications, shall not contravene or negate Standard or Guidance statements in the national MUTCD. The FHWA Division Administrators shall approve the State MUTCDs and Supplements that are in substantial conformance as defined heretofore with the national MUTCD. The FHWA Associate Administrator of the Federal Lands Highway Program shall approve other Federal land management agencies' MUTCDs and Supplements that are in substantial conformance as defined heretofore with the national MUTCD. The FHWA Division Administrators and the FHWA Associate Administrators for the Federal Lands Highway Program have the flexibility to determine on a case-by-case basis the degree of variation allowed in a State MUTCD or Supplement to accommodate existing State laws as described heretofore, for the express purpose of amending such laws over time.

■ 8. Amend Appendix to Subpart F of Part 655 by:

■ a. In paragraph 6 removing the word ''nine'' and adding in its place the word ''ten''; and

■ b. Adding Table 7.

The addition reads as follows:

Appendix to Subpart F of Part 655—Alternate Method of Determining the Color of Retroreflective Sign Materials and Pavement Marking Materials

* * * * *

TABLE 7 TO APPENDIX TO PART 655, SUBPART F—DAYTIME COLOR SPECIFICATION LIMITS FOR NON-RETROREFLECTIVE MATERIALS USED FOR COLORED PAVEMENTS

Color	Chromaticity coordinates							
	1		2		3		4	
	x	y	x	y	x	y	x	y
Green	0.230	0.714	0.266	0.460	0.367	0.480	0.367	0.584
Red	0.420	0.330	0.450	0.380	0.560	0.370	0.540	0.320

[FR Doc. 2023–27178 Filed 12–18–23; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9984]

RIN 1545–BN59

De Minimis Error Safe Harbor Exceptions to Penalties for Failure To File Correct Information Returns or Furnish Correct Payee Statements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations implementing statutory safe harbor rules that protect persons required to file information returns or to furnish payee statements from penalties under the Internal Revenue Code (Code) for failure to file correct information returns or furnish correct payee statements. The statutory safe harbor rules treat information returns and payee statements with erroneous dollar amounts as correct returns or statements for certain penalty purposes if the errors are de minimis in dollar amount. The final regulations also prescribe the time and manner in which a payee may elect not to have the statutory safe harbor rules apply. In addition, these final regulations update dollar amounts, definitions, and references in existing regulations relating to information return and payee statement penalties to reflect various statutory amendments to the Code that are not accounted for in the existing regulations. Finally, the final regulations provide rules relating to the reporting of basis of securities by brokers as this reporting relates to the de minimis error safe harbor rules. The final regulations affect persons required to either file information returns or to furnish payee statements (filers) and the recipients of payee statements (payees).

DATES:

Effective date: These regulations are effective on December 19, 2023.

Applicability dates: For dates of applicability, *see* §§ 1.6045–1(d)(6)(ix) and (q), 301.6721–1(j), 301.6722–1(g), and 301.6724–1(o).

FOR FURTHER INFORMATION CONTACT: Alexander Wu at (202) 317–6845 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations to amend the Income Tax Regulations (26 CFR part 1) under section 6045(g) of the Code and the Procedure and Administration Regulations (26 CFR part 301) under sections 6721, 6722, and 6724 of the Code. In particular, the final regulations implement two statutory safe harbors that except certain de minimis errors in reporting correct dollar amounts on information returns and payee statements from the penalty for failure to file correct information returns imposed by section 6721 and the penalty for failure to furnish correct payee statements imposed by section 6722 (de minimis error safe harbor exceptions). The de minimis error safe harbor exceptions are found in sections 6721(c)(3) and 6722(c)(3), which were added to the Code by section 202 of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), enacted as division Q of the Consolidated Appropriations Act, 2016, Public Law 114–113, 129 Stat. 2242, 3076–78 (2015). Under sections 6721(c)(3) and 6722(c)(3), an error in a reported dollar amount generally is ''de minimis'' if the difference between any single amount reported in error and the correct amount required to be reported does not exceed $100. If such a difference is with respect to reporting an amount of tax withheld, the difference may not be more than $25.

On October 17, 2018, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (REG–118826–16) in the **Federal Register** (83 FR 52726) containing proposed regulations to implement the de minimis error safe harbor exceptions, as well as to update dollar amounts, definitions, and references reflecting various statutory amendments to the Code that are not accounted for in provisions of existing regulations relating to information return and payee statement penalties (proposed regulations). The proposed regulations were issued following a notice announcing and describing regulations intended to be issued under sections 6721, 6722, and 6724. *See* Notice 2017–09, 2017–4 I.R.B. 542 (January 23, 2017).

The Treasury Department and the IRS received six written comments in response to the notice of proposed rulemaking. All of the written comments responding to the notice of proposed rulemaking are available at *https://www.regulations.gov* or upon request. Some comments merely expressed appreciation for the proposed regulations. No public hearing was requested or held. After consideration of the written comments, the proposed regulations are adopted as modified by this Treasury Decision.

Summary of Comments and Explanation of Revisions

This Summary of Comments and Explanation of Revisions section addresses the substantive comments in response to the notice of proposed rulemaking that disagreed with or requested clarification of the proposed regulations. See the Explanation of Provisions section of REG–118826–16 for a detailed explanation of the proposed regulations.

I. Effect of the Regulations on Tax Compliance

One comment stated that the proposed regulations ''will increase the amount of regulation we have when it comes to 'failure to file cases' in the US.'' The comment did not describe how the proposed regulations would increase the amount of regulation applicable to ''failure to file cases.'' The Treasury Department and the IRS note that the regulations implement statutory provisions providing certain protections to filers and payees, and the amount of

regulation is only one of several factors that must be considered in implementing statutory provisions. The Treasury Department and the IRS further note that the safe harbor is generally intended to provide filers with relief from penalties that would otherwise accrue due to unintentional de minimis errors in reporting correct dollar amounts on information returns and payee statements. Accordingly, the final regulations do not adopt this comment.

II. De minimis Error Safe Harbor Election

A. Applying the Election to Individual Securities and Individual Accounts

One comment requested a more efficient way to furnish correct payee statements generally. The commentator did not suggest a specific method for furnishing correct payee statements; nevertheless, the method for furnishing correct payee statements is beyond the scope of these regulations, which is limited to implementing the two de minimis error safe harbor exceptions and otherwise updating existing regulations for statutory changes. The final regulations therefore do not adopt this comment.

One comment disagreed with providing filers the option to choose whether to correct de minimis errors. The comment also stated that the de minimis threshold was too high and disagreed with the de minimis error safe harbor exceptions applying on a ''per security'' rather than a ''per account'' basis. The Treasury Department and the IRS note that sections 6721(c)(3) and 6722(c)(3) mandate the option for filers to choose whether to correct de minimis errors, subject to an election by a payee to override this option. Sections 6721(c)(3)(A) and 6722(c)(3)(A) also mandate the de minimis thresholds with specificity. The final regulations reflect these statutory requirements. The Treasury Department and the IRS further note that the statutory de minimis error safe harbor exceptions apply on a ''per statement'' basis. Section 6722(c)(3)(A) expressly provides that the de minimis error safe harbor exceptions apply ''with respect to any payee statement.'' Further, section 6722(c)(3)(B) provides that the de minimis error safe harbor exceptions ''shall not apply to any payee statement if the person to whom such statement is required to be furnished makes an election . . . with respect to such statement.'' To the extent that a statement relates only to a single security, the statute applies, in effect, on a ''per security'' basis. The statute allows for this outcome, and the final regulations accord with the plain reading of the statute.

One comment reiterated comments submitted in 2018 prior to the publication of the proposed regulations. This comment suggested that a payee's election to override the de minimis error safe harbor exceptions should apply on an account-by-account basis, rather than on a statement-by-statement basis. The comment questioned whether it was Congress's intent to require taxpayers to make separate elections for each payee statement. As stated in the preamble of the notice of proposed rulemaking, the comment's suggested rule would significantly limit a payee's options for making elections and is inconsistent with the statutory framework of sections 6721 through 6724, which generally impose a penalty on a per statement (or return) basis. However, a payee need not decide on elections individually for each payee statement associated with a single account or filer but may elect as to all payee statements or any combination of payee statements, with the election lasting indefinitely by default. As recognized in the notice of proposed rulemaking, nothing in the Code prohibits filers from providing corrected statements regardless of the de minimis error safe harbor exceptions or payee election. Thus, in drafting the PATH Act, Congress was aware that filers could provide corrections on an account-wide basis once a payee made an election with respect to a single type of payee statement associated with that account.

B. Potential for Inconsistencies in Basis Reporting

A comment stated that the proposed regulations could cause inconsistencies in basis reporting that are contrary to congressional intent. The comment was specifically concerned with a situation in which a payee would elect to override the de minimis error safe harbor exceptions with respect to one form but not another corresponding form. For example, a payee could elect to override the safe harbor exception with respect to a Form 1099–DIV, *Dividends and Distributions,* but not elect to override the safe harbor exception with respect to a corresponding Form 1099–B, *Proceeds From Broker and Barter Exchange Transactions,* potentially resulting in inconsistently reported basis.

The Treasury Department and the IRS have determined that the text of proposed § 1.6045–1(d)(6)(vii) should be amended to more clearly address this situation. Under the rule as modified by these final regulations, if a Form 1099–DIV is corrected because a payee elects to override the de minimis error safe harbor exceptions as applied to the Form 1099–DIV, then the adjusted basis reported on the corresponding Form 1099–B must be based on and consistent with the corresponding corrected dollar amount shown on the corrected Form 1099–DIV. After taking into account the corrected dollar amount shown on the corrected Form 1099–DIV, Form 1099–B should be corrected if there is an error on the Form 1099–B and that error is not de minimis. In any event, to avoid inconsistent reporting, the filer can always choose to correct the Form 1099–B, or the payee can elect to override the de minimis safe harbor exceptions with respect to the Form 1099–B.

The Treasury Department and the IRS note that the fact that Congress enacted the de minimis error safe harbor exceptions indicates Congress was aware that there might be minor inconsistencies in basis reporting and that the de minimis error safe harbor exceptions apply only for certain penalty purposes. The de minimis error safe harbor exceptions have no effect on the operation of those provisions of the Code that apply to determine the basis of property, such as section 1012 of the Code.

C. Effective Date of Payee Election

Another comment requested the payee election be effective only on a prospective basis, citing administrative burden. The Treasury Department and the IRS note that the election is prospective in that a filer is required to furnish corrected statements after the date the election is made by the payee, and an election, once made, is in effect until revoked. Any administrative burden as described by the comment is limited because the payee must elect no later than the later of 30 days after the date on which the payee statement is required to be furnished to the payee, or October 15 of the calendar year, to receive a correct payee statement required to be furnished in that calendar year. As discussed in the preamble to the proposed regulations, administrative burden is but one factor that must be considered. A competing consideration is the flexibility that Congress provided for payees to elect out of the de minimis error safe harbor exceptions. The Treasury Department and the IRS have determined that the proposed rules reflect a reasonable balancing of these considerations. Thus, the final regulations do not adopt this suggestion.

III. Clarification of Items in the Proposed Regulations and Other Guidance

Two comments requested clarification that the term ''tax withheld'' in proposed § 301.6722–1(d)(2) includes social security, Medicare, and Additional Medicare taxes. The definition in the proposed regulations referenced some of the more common types of taxes withheld but was not intended to be an exhaustive list of all Federal taxes considered to be ''tax withheld.'' The use of the term ''includes'' in proposed § 301.6722–1(d)(2) is based on the definition of ''includes'' in section 7701(c) of the Code, which provides that the term ''includes'' when used in a definition ''shall not be deemed to exclude other things otherwise within the meaning of the term defined.'' Nevertheless, to resolve any ambiguity as to whether the term ''tax withheld'' includes social security, Medicare, and Additional Medicare taxes, the final regulations generally adopt the text of proposed § 301.6722–1(d)(2) but modify the definition of ''tax withheld'' by adding a reference to section 3102 of the Code in § 301.6722–1(d)(2).

One comment requested clarification on whether different taxes withheld and reported separately on an information return or payee statement are considered separately in determining whether the de minimis threshold is reached. To illustrate, the comment asked if errors on an employee's Form W–2, *Wage and Tax Statement,* in the amounts of $20 in Federal income tax withheld, $20 in Medicare tax withheld, and $7.41 in Additional Medicare tax withheld would be considered separately for de minimis threshold purposes. The definition of ''de minimis error'' in proposed § 301.6722–1(d)(2) refers to ''any single amount in error.'' Accordingly, if a payee statement does not require taxes withheld to be combined into a single amount for reporting purposes, then each single amount of tax required to be reported separately would be considered separately in determining whether an error is de minimis. To respond to the concern raised by this comment, the final regulations add new examples in § 301.6722–1(d)(5)(iv) and (v) to illustrate this result and update the Table of Contents in § 301.6721–0 relating to § 301.6722–1(d)(5).

The comment also suggested that additional disclosures be provided in the General Instructions for Forms W–2 and W–3, *Transmittal of Wage and Tax Statements.* The comment correctly noted that the de minimis error safe harbor exceptions under sections 6721(c)(3) and 6722(c)(3) apply only for information return and payee statement penalty purposes, and do not apply for other purposes, including the requirement to pay and report employment taxes on Form 941, *Employer's QUARTERLY Federal Tax Return.* The comment suggested including a note of caution concerning the effect of incorrect information returns on other aspects of tax compliance. The Treasury Department and the IRS will consider revising the General Instructions for Forms W–2 and W–3. To respond to the concern raised by this comment, the final regulations add §§ 301.6721–1(e)(5) and 301.6722–1(d)(7), which state that the de minimis error safe harbor exceptions under sections 6721(c)(3) and 6722(c)(3) apply only for information return and payee statement penalty purposes, respectively, and not for other purposes, including requirements to pay and report taxes pursuant to provisions of the Code other than sections 6721 and 6722. The final regulations also add §§ 301.6721–1(e)(4) and 301.6722–1(d)(6) to make clear that, regardless of whether the de minimis error safe harbor exceptions provide an exception for not filing or furnishing the corrected statement, a filer may voluntarily file (1) a corrected information return if the corresponding payee statement is furnished concurrently, or (2) a corrected payee statement may be furnished voluntarily if the corresponding information return is filed concurrently.

Finally, proposed § 301.6724–1(g) proposed to update the questions and answers in § 301.6724–1(g) regarding the due diligence safe harbor as in effect on October 12, 2018, the date the proposed regulations were published in the **Federal Register**. The proposed changes updated the existing regulations to remove outdated references and to make numerous conforming amendments to reflect the addition and redesignation of paragraphs. No comments were received in response to the proposed changes to § 301.6724–1(g). Nevertheless, the final regulations make non-substantive formatting changes to convert the outmoded questions and answers into more clearly stated rules.

Applicability Dates

The proposed regulations provided that the regulations generally would apply with respect to information returns required to be filed and payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

However, the proposed regulations provided that proposed § 301.6724–1(h) would apply with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2017. The final regulations generally adopt the applicability dates proposed in the proposed regulations. However, because Notice 2017–09 was released to the public on January 4, 2017, the final regulations postpone the applicability date of § 301.6724–1(h) by providing that § 301.6724–1(h) applies with respect to information returns required to be filed and payee statements required to be furnished after January 4, 2017.

Effect on Other Documents

These final regulations under sections 6045(g), 6721, 6722, and 6724 supersede Notice 2017–09 with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2024.

Special Analyses

I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. These regulations implement the de minimis error safe harbor exceptions in sections 6721(c)(3) and 6722(c)(3) to the sections 6721 and 6722 penalties. Pursuant to section 6722(c)(3)(B), these regulations also provide for the time and manner for elections by payees that the de minimis error safe harbor exceptions not apply, including optional notifications by filers to provide for an alternative reasonable manner for the election. Finally, these regulations provide rules for revocations by payees of elections and record retention rules.

Although these regulations may affect a substantial number of small entities, the economic impact on these entities is not significant. The de minimis error

safe harbor exceptions are expected to reduce the burden on all filers, including small entities, to file corrected information returns and furnish corrected payee statements because of de minimis errors. In those cases where payees opt to make a voluntary election for the de minimis error safe harbor exceptions to not apply to a payee statement, the expense of making the voluntary election will be borne by the payees, some of which may be small entities. However, any expense to make this voluntary election is expected to be minimal and therefore not have a significant economic impact.

Filers that are small entities receiving elections may incur costs in processing the elections, including initial costs in implementing systems or modifying existing systems to process elections, and subsequently in time incurred administering these systems. However, because section 6722(c)(3)(B) provides for a payee election, such costs flow from the statute regardless of these regulations. The Code and regulations have long required the filing of information returns and the furnishing of payee statements by filers. Accordingly, systems for filing information returns and furnishing payee statements are already in existence. Any costs incurred pursuant to these regulations in modifying those systems are not expected to be significant. These regulations provide clarity regarding the election process, which is expected to result in a more streamlined process for correcting payee statements.

Similarly, in those cases where payees opt to make a voluntary revocation of a prior voluntary election, the expense of making the voluntary revocation will be borne by the payees, some of which may be small entities. Any expense to make a voluntary revocation of a prior voluntary election is expected to be minimal and therefore not have a significant economic impact. Filers that are small entities receiving revocations will benefit from the resulting applicability of the de minimis error safe harbor exceptions, resulting in reduced burden to file corrected information returns and furnish corrected payee statements because of de minimis errors. Filers that are small entities receiving revocations may incur costs in processing the revocations similar to those incurred in processing elections; however, it is expected that systems implementing payee elections can be modified with minimal additional cost to account for revocations in addition to elections. Filers that are small entities choosing to provide the optional notification to payees regarding an alternative reasonable manner for making the election may incur costs in providing the notification. However, it is expected that filers will only provide optional notifications if they have determined that any cost in providing the notification is offset by a resulting economic benefit to the filer, such as a more cost-efficient election system. The record retention rules may also increase expenses for filers that are small entities; however, any added expenses are expected to be minimal given existing record retention systems.

Pursuant to section 7805(f), the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses. No comments were received from the Chief Counsel for Advocacy of the Small Business Administration.

III. Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2301.

The collection of information in these final regulations is in § 301.6722–1(d)(3)(iii) regarding the payee election, (d)(3)(v)(B) regarding the filer notification, (d)(3)(vii) regarding the payee revocation, and (d)(4) regarding record retention. The information in final regulations § 301.6722–1(d)(3)(iii) and (vii) will be used by payees to make and revoke elections and by filers to determine whether they are required to furnish corrected payee statements to payees and file corrected information returns with the IRS to avoid application of penalties under sections 6721 and 6722 of the Code. The information under final regulation § 301.6722–1(d)(3)(v)(B) will be used to give filers and payees flexibility in establishing reasonable alternative manners for elections. And the information in final regulation § 301.6722–1(d)(4) will be used by the IRS to determine whether filers are subject to penalties under sections 6721 and 6722. The collection of information in final regulations § 301.6722–1(d)(3)(iii) regarding the payee election, (d)(3)(v)(B) regarding the filer notification, and (d)(3)(vii) regarding the payee revocation is voluntary to obtain a benefit. The collection of information in final regulation § 301.6722–1(d)(4) regarding record retention is mandatory. The likely respondents are individuals, state or local governments, farms, business or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million (updated annually for inflation). This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

E.O. 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the E.O. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the E.O.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs has designated this rule as not a major rule as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Alexander Wu of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in the development of the regulations.

Statement of Availability

The IRS Notices and Revenue Procedures cited in this Treasury Decision are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR parts 1 and 301 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

■ **Par. 2.** Section 1.6045–1 is amended by:
■ 1. Redesignating paragraph (d)(6)(vii) as paragraph (d)(6)(viii);
■ 2. Adding a new paragraph (d)(6)(vii);
■ 3. In newly redesignated paragraph (d)(6)(viii), designating *Examples 1* through *4* as paragraphs (d)(6)(viii)(A) through (D), respectively;
■ 4. Redesignating newly designated paragraphs (d)(6)(viii)(A)(i) through (iii) as paragraphs (d)(6)(viii)(A)(*1*) through (*3*), respectively;
■ 5. In newly designated paragraph (d)(6)(viii)(B), removing the language ''*Example 1*'' and adding ''paragraph (d)(6)(viii)(A)(*1*) of this section (*Example 1*)'' in its place;
■ 6. Redesignating newly designated paragraphs (d)(6)(viii)(C)(i) and (ii) as paragraphs (d)(6)(viii)(C)(*1*) and (*2*);
■ 7. Adding paragraph (d)(6)(ix); and
■ 8. Revising paragraphs (k)(4), (l), and (q).

The additions and revisions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(d) * * *

(6) * * *

(vii) *Treatment of de minimis errors.* For purposes of this section, a customer's adjusted basis generally must be determined by treating any incorrect dollar amount that is not required to be corrected by reason of section 6721(c)(3) or 6722(c)(3) as the correct amount. However, if a broker, upon identifying a dollar amount as incorrect, voluntarily or is required to file a corrected information return and furnish the corresponding corrected payee statement showing the correct dollar amount, then regardless of any provision under section 6721 or 6722, the adjusted basis for purposes of this section must be based on and consistent with the correct dollar amount as reported on the corrected information return and corrected payee statement.

* * * * *

(ix) *Applicability date.* Paragraph (d)(6)(vii) of this section applies with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2024.

* * * * *

(k) * * *

(4) *Cross-reference to penalty.* For provisions for failure to furnish timely a correct payee statement, *see* § 301.6722–1 of this chapter (Procedure and Administration Regulations). *See* § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(l) *Use of magnetic media or electronic form. See* § 301.6011–2 of this chapter for rules relating to filing information returns on magnetic media or in electronic form and for rules relating to waivers granted for undue hardship. A broker or barter exchange that fails to file a proper Form 1099 electronically, when required, may be subject to a penalty under section 6721 for each such failure. *See* paragraph (j) of this section.

* * * * *

(q) *Applicability dates.* Except as otherwise provided in paragraphs (d)(6)(ix), (m)(2)(ii), and (n)(12)(ii) of this section, and in this paragraph (q), this section applies on or after January 6, 2017. Paragraphs (k)(4) and (l) of this section apply with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2024. (For rules that apply after June 30, 2014, and before January 6, 2017, *see* 26 CFR 1.6045–1, as revised April 1, 2016.)

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 4.** Section 301.6721–0 is amended by:
■ 1. Revising the introductory text and the entries for § 301.6721–1(b)(6) and (d)(4);
■ 2. Redesignating the entries for § 301.6721–1(e), (e)(1) and (2), (f), (f)(1) through (6), (g), and (g)(1) through (6) as entries for § 301.6721–1(f), (f)(1) and (2), (g), (g)(1) through (6), (h), and (h)(1) through (6), respectively;
■ 3. Adding entries for § 301.6721–1(e), (e)(1) through (5), (i), and (j);
■ 4. Redesignating the entries for § 301.6722–1(d) and (d)(1) through (3) as the entries for § 301.6722–1(e) and (e)(1) through (3);
■ 5. Adding entries for § 301.6722–1(d), (d)(1) through (7), (e)(4), (f), and (g);
■ 6. In the entry for § 301.6724–1(c)(4), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;
■ 7. Revising the entry for § 301.6724–1(h);
■ 8. Removing the entries for § 301.6724–1(h)(1) and (2); and
■ 9. Adding an entry for § 301.6724–1(o).

The additions and revisions read as follows:

§ 301.6721–0 Table of Contents.

In order to facilitate the use of §§ 301.6721–1 through 301.6724–1, this section lists the paragraph headings contained in these sections.

(6) Voluntary corrections.
(7) Limitations on applicability.
(e) * * *
(4) Filer.
(f) Adjustment for inflation.
(g) Applicability date.
* * * * *

§ 301.6724–1 Reasonable cause.

* * * * *

(h) Reasonable cause safe harbor after election under section 6722(c)(3)(B).
* * * * *

(o) Applicability date.

■ **Par. 5.** Section 301.6721–1 is amended by:
■ 1. Revising paragraphs (a)(1) and (b)(1) and (2);
■ 2. In paragraph (b)(3), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;
■ 3. Revising paragraph (b)(5) introductory text and (b)(5)(i) and (ii);
■ 4. Adding paragraph (b)(6);
■ 5. Revising paragraphs (c)(1), (c)(2)(iii), and (c)(3) introductory text;
■ 6. In paragraph (c)(3), designating *Examples 1* through *3* as paragraphs (c)(3)(i) through (iii), respectively;
■ 7. In newly designated paragraphs (c)(3)(i) through (iii), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;
■ 8. In newly designated paragraph (c)(3)(ii), removing the language ''the error'' and adding ''The error'' in its place;
■ 9. Revising paragraph (d);
■ 10. Redesignating paragraphs (e), (f), (g), and (h) as paragraphs (f), (g), (h), and (j), respectively;
■ 11. Adding a new paragraph (e);
■ 12. Revising newly redesignated paragraphs (f)(1) and (g)(1);
■ 13. In newly redesignated paragraph (g)(3)(iii), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;
■ 14. Revising newly redesignated paragraphs (g)(4) through (6), (h)(1), and (h)(2)(x) and (xi);
■ 15. Adding paragraphs (h)(2)(xii);
■ 16. Revising newly redesignated paragraphs (h)(3)(xvii), (xviii), (xxiv), and (xxv);
■ 17. Adding paragraphs (h)(3)(xxvi) and (xxvii);
■ 18. Revising newly redesignated paragraphs (h)(4) and (6);
■ 19. Adding paragraph (i); and
■ 20. Revising newly redesignated paragraph (j).

The revisions and additions read as follows:

§ 301.6721–1 Failure to file correct information returns.

(a) * * *

(1) *General rule.* A penalty of $250 is imposed for each *information return* (as defined in section 6724(d)(1) and paragraph (h) of this section) with respect to which a *failure* (as defined in section 6721(a)(2) and paragraph (a)(2) of this section) occurs. No more than one penalty will be imposed under this paragraph (a)(1) with respect to a single information return even though there may be more than one failure with respect to such return. The total amount imposed on any person for all failures during any calendar year with respect to all information returns will not exceed $3,000,000. *See* paragraph (b) of this section for a reduction in the penalty if the failures are corrected within specified periods. *See* paragraph (c) of this section for an exception to the penalty for inconsequential errors or omissions. *See* paragraph (d) of this section for an exception to the penalty for a de minimis number of failures. *See* paragraph (e) of this section for a safe harbor exception for certain de minimis errors. *See* paragraph (f) of this section for lower limitations to the $3,000,000 maximum penalty. *See* paragraph (g) of this section for higher penalties if a failure is due to intentional disregard of the requirement to file timely correct information returns. *See* paragraph (i) of this section for inflation adjustments to penalty amounts. *See* § 301.6724–1(a)(1) for waiver of the penalty for a failure that is due to reasonable cause.

* * * * *

(b) * * *

(1) *Correction within 30 days.* The penalty imposed under section 6721(a) for a failure to file timely or for a failure to include correct information will be $50 in lieu of $250 if the failure is corrected on or before the 30th day after the required filing date (corrected within 30 days). The total amount imposed on a person for all failures during any calendar year that are corrected within 30 days will not exceed $500,000.

(2) *Correction after 30 days but on or before August 1.* The penalty imposed under section 6721(a) for a failure to file timely or for a failure to include correct information will be $100 in lieu of $250 if the failure is corrected after the 30-day period described in paragraph (b)(1) of this section but on or before August 1 of the year in which the required filing date occurs (corrected after 30 days but on or before August 1). *See* paragraph (b)(6) of this section for an exception to the provisions of this paragraph (b)(2) for returns that are not due on January 31, February 28, or March 15. The total amount imposed on a person for all failures during any calendar year corrected after 30 days but on or before August 1 will not exceed $1,500,000.

* * * * *

(5) *Examples.* The provisions of paragraphs (a) and (b)(1) through (4) of this section may be illustrated by the following examples. These examples do not take into account any possible application of the de minimis exception under paragraph (d) of this section, the safe harbor exception for certain de minimis errors under paragraph (e) of this section, the lower small business limitations under paragraph (f) of this section, the penalty for intentional disregard under paragraph (g) of this section, adjustments for inflation under paragraph (i) of this section, or the reasonable cause waiver under § 301.6724–1(a):

(i) *Example 1.* Corporation R fails to file timely 23,000 Forms 1099–MISC, *Miscellaneous Information,* for the 2023 calendar year. Of the forms filed, 5,000 are filed with correct information within 30 days, and 18,000 after 30 days but on or before August 1, 2024. For the same year R fails to file timely 400 Forms 1099–INT, *Interest Income,* which R eventually files on September 28, 2024, after the period for reduction of the penalty has elapsed. R is subject to a penalty of $100,000 for the 400 forms that were not filed by August 1 ($250 × 400 = $100,000), $1,500,000 for the 18,000 forms filed after 30 days ($100 × 18,000 = $1,800,000, limited to $1,500,000 under paragraph (b)(2) of this section), and $250,000 for the 5,000 forms filed within 30 days ($50 × 5,000 = $250,000), for a total penalty of $1,850,000.

(ii) *Example 2.* Corporation T fails to file timely 14,000 Forms 1099–MISC for the 2023 calendar year. T files the 14,000 Forms 1099–MISC on September 3, 2024. Because T does not correct the failure by August 1, 2024, T is subject to a penalty of $3,000,000, the maximum penalty under paragraph (a) of this section. Without the limitation of paragraph (a) of this section, T would be subject to a $3,500,000 penalty ($250 × 14,000 = $3,500,000).

* * * * *

(6) *Application to returns not due on January 31, February 28, or March 15.* For returns that are not due on January 31, February 28, or March 15 (for example, a Form 8300, *Report of Cash Payments Over $10,000 Received in a Trade or Business*), the penalty is $50 if the failure is corrected within 30 days. If the failure is corrected after 30 days, the penalty is $250 rather than $100. There is no period during which the penalty is reduced to $100 under paragraph (b)(2) of this section.

(c) * * *

(1) *In general.* An inconsequential error or omission is not considered a

failure to include correct information. For purposes of this paragraph (c)(1), the term *inconsequential error or omission* means any failure that does not prevent or hinder the IRS from processing the return, from correlating the information required to be shown on the return with the information shown on the payee's tax return, or from otherwise putting the return to its intended use. *See* paragraph (h)(5) of this section for the definition of *payee.*

(2) * * *

(iii) Any monetary amounts, except as provided in paragraph (e) of this section. The IRS may, by administrative pronouncement, specify other types of errors or omissions that are never inconsequential.

(3) *Examples.* The provisions of this paragraph (c) may be illustrated by the following examples, which do not take into account any possible application of the penalty for intentional disregard under paragraph (g) of this section or the reasonable cause waiver under § 301.6724–1(a):

* * * * *

(d) *Exception for a de minimis number of failures*—(1) *Requirements.* The penalty under paragraph (a) of this section is not imposed for a de minimis number of failures to include correct information if the filer corrects such failures on or before August 1 of the year in which the required filing date occurs. *See* paragraph (d)(4) of this section for special rules relating to returns that are not due on January 31, February 28, or March 15.

(2) *Calculation of the de minimis exception.* The number of returns to which the de minimis exception in this paragraph (d) applies for any calendar year will not exceed the greater of 10 or one-half of one percent of the total number of all information returns the filer is required to file during the year. If the number of returns on which the filer fails to include correct information exceeds the number of returns to which the de minimis exception applies, the de minimis exception applies to those returns that will afford the filer the greatest reduction in penalty. The de minimis exception applies to failures to include correct information that exist after the application (if any) of the safe harbor exception for certain de minimis errors under paragraph (e) of this section and after the application (if any) of the waiver for reasonable cause under section 6724(a) and § 301.6724–1. Returns to which the de minimis exception applies are treated as having been originally filed with correct information.

(3) *Examples.* The provisions of this paragraph (d) may be illustrated by the following examples. In each of the examples, the failures to file and to include correct information are subject to penalty under paragraph (a) of this section. The examples do not take into account any possible application of the safe harbor exception for certain de minimis errors under paragraph (e) of this section, the lower small business limitations under paragraph (f) of this section, the penalty for intentional disregard under paragraph (g) of this section, any adjustment for inflation under paragraph (i) of this section, or the reasonable cause waiver under § 301.6724–1(a).

(i) *Example 1.* Corporation T files timely 10,000 Forms 1099–INT, *Interest Income,* for 2023 by February 28, 2024. The 10,000 forms are all the information returns that T is required to file during the 2024 calendar year. Of the forms filed, 70 contained incorrect information. T corrects the failures on July 12, 2024. No penalty is imposed for 50 of the failures (that is, the greater of 10 or .005 × 10,000 = 50) even though the total failures, 70, exceed the number to which the de minimis exception may apply. The $100 penalty under paragraph (b)(2) of this section is imposed, in lieu of $250, for the remaining 20 failures, which were corrected after 30 days but before August 1, resulting in a total penalty of $2,000 ($100 × 20 = $2,000).

(ii) *Example 2.* Corporation U files timely 9,500 Forms 1099–INT for 2023 by February 28, 2024. Fifty of these returns contain incorrect information with respect to which U files correct information on August 1, 2024. U also files 500 Forms 1099–INT for 2023 on August 30, 2024, after the required filing date. The 10,000 returns are all the information returns that U is required to file during the 2024 calendar year. The calculation of the de minimis exception is based on the 10,000 returns required to be filed during the 2024 calendar year even though 500 of the returns filed during the year were not filed timely. Therefore, the number of failures for which the de minimis exception applies is 50, and accordingly no penalty is imposed for the 50 Forms 1099–INT that were corrected on August 1. However, the $250 penalty under paragraph (a)(1) of this section is imposed for each failure to file timely (that is, the de minimis exception does not apply to this penalty for failure to file timely), resulting in a total penalty of $125,000 ($250 × 500 = $125,000).

(iii) *Example 3.* Corporation V files timely 9,950 Forms 1099–INT for 2023 by February 28, 2024. However, V fails to file timely 50 of its Forms 1099–INT. The 10,000 returns are all the information returns that V is required to file during the 2024 calendar year. Upon discovering the error, V files the 50 returns within 30 days of February 28, 2024. The 50 returns are complete and correct except that V fails to include the taxpayer identification numbers of the payees on the returns. V files corrected returns on August 1, 2024. Absent application of the de minimis exception, the penalty imposed for the failure to include correct information would be $5,000 ($100 × 50 = $5,000). Because the incorrect returns are corrected on August 1, the 50 forms are treated under the de minimis exception as originally filed with correct information, and therefore no penalty is imposed under paragraph (a) of this section for the failure to include correct information. Nevertheless, the penalty under paragraph (a) of this section is imposed for the failure to file timely the 50 returns because the de minimis exception does not apply to the penalty for the failure to file timely. Hence, a penalty of $2,500 ($50 × 50 = $2,500) is imposed.

(iv) *Example 4.* Corporation W files timely 100 Forms 1099–DIV and files an additional 50 Forms 1099–DIV late, but within 30 days of February 28, 2024. These are all the information returns that W was required to file during the 2024 calendar year. W discovers errors on 10 of the returns that were filed timely, and on 5 of the returns that were filed late. W corrects all the errors on August 1, 2024. The de minimis exception applies to 10 of the corrected returns. The exception will be allocated to the 10 returns that were filed timely with incorrect information, because that allocation is most favorable to W (that is, applying the exception to a return filed late with incorrect information would save W $50, by reducing the penalty on that return from $100 to $50, but applying the exception to a return filed timely would save W $100, by reducing the penalty on that return from $100 to $0). (*See* paragraph (b)(4) of this section.)

(4) *Nonapplication to returns not due on January 31, February 28, or March 15.* The exception for a de minimis number of failures provided in paragraph (d)(1) of this section does not apply to failures with respect to returns that are not due on January 31, February 28, or March 15 (for example, Forms 8300 reporting certain cash payments of $10,000 or more). Nevertheless, the returns that are not due on January 31, February 28, or March 15 are included in the total number of all information returns that the filer is required to file during a year for purposes of calculating the number of the returns subject to the

de minimis exception under paragraph (d)(2) of this section.

(e) *Safe harbor exception for certain de minimis errors*—(1) *In general.* Except as provided in paragraph (e)(3) or (g)(4) of this section, the penalty under section 6721(a) and paragraph (a) of this section is not imposed for a failure described in section 6721(a)(2)(B) and paragraph (a)(2)(ii) of this section (failure to include correct information on information return) if the failure relates to an incorrect dollar amount and is a de minimis error. If the safe harbor in this paragraph (e) applies to an information return and the information return was otherwise correct and timely filed, no correction is required and, for purposes of this section, the information return is treated as having been filed with all of the correct required information.

(2) *Definition of de minimis error.* For the definition of *de minimis error, see* § 301.6722–1(d)(2).

(3) *Election to override the safe harbor exception.* The safe harbor exception provided for by paragraph (e)(1) of this section does not apply to any information return if the incorrect dollar amount that would qualify as a de minimis error for purposes of this paragraph (e) relates to an amount with respect to which an election has been made (and has not been revoked) under section 6722(c)(3)(B) and § 301.6722–1(d)(3). *See* § 301.6722–1(d)(3) for additional rules relating to the election under section 6722(c)(3)(B) and § 301.6722–1(d)(3), including rules relating to the revocation of the election and the inapplicability of the election to certain information. *See* § 301.6724–1(h) for rules relating to waiver of the section 6721 penalty in cases where the safe harbor exception provided for by paragraph (e)(1) of this section does not apply because of an election under § 301.6722–1(d)(3).

(4) *Voluntary corrections.* Regardless of whether the de minimis error safe harbor in this paragraph (e) provides an exception for not filing a particular corrected information return, the corrected information return may be filed voluntarily if a corresponding payee statement reflecting the information shown on the corrected information return is concurrently furnished to the payee.

(5) *Limitations on applicability.* The safe harbor exception provided for by paragraph (e)(1) of this section applies only for the purposes of information return penalties under section 6721. Accordingly, this safe harbor exception applies to the reporting of amounts on information returns, including the reporting of the withholding of tax on information returns, but it does not apply for purposes of any underlying requirements to withhold or pay tax. Interest, penalties, and other additions to tax may be imposed under other sections for under-withholding or underpaying tax in any amount.

(f) * * *

(1) *In general.* If a person meets the *gross receipts test* (as defined in paragraph (f)(2) of this section) for any calendar year, the total amount of the penalty imposed on the person for all failures described in section 6721(a)(2) and paragraph (a)(2) of this section during the calendar year will not exceed $1,000,000. The total amount of the penalty imposed under paragraph (b)(1) of this section for failures corrected within 30 days will not exceed $175,000 for the calendar year. The total amount of the penalty imposed under paragraph (b)(2) of this section for failures corrected after 30 days but on or before August 1 will not exceed $500,000 for the calendar year.

* * * * *

(g) * * *

(1) *Application of section 6721(e).* If a failure is due to intentional disregard of the requirement to file timely or to include correct information on a return as described in paragraph (h) of this section, the amount of the penalty imposed under paragraph (a) of this section must be determined under paragraph (g)(4) of this section.

* * * * *

(4) *Amount of the penalty.* If one or more failures to file timely or to include correct information are due to intentional disregard of the requirement to file timely or to include correct information, then, with respect to each failure determined under this paragraph (g)—

(i) Paragraphs (b), (d), (e), and (f) of this section will not apply;

(ii) The $3,000,000 limitation under paragraph (a) of this section will not apply, and the penalty under this paragraph (g) will not be taken into account in applying the $3,000,000 limitation (or any similar limitation under paragraph (b) or (f) of this section) to penalties not determined under this paragraph (g);

(iii) The penalty imposed under paragraph (a) of this section will be $500 or, if greater, the statutory percentage; and

(iv) The term *statutory percentage* means—

(A) In the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, 6050L, or 6050V, 10 percent of the aggregate dollar amount of the items required to be reported correctly;

(B) In the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate dollar amount of the items required to be reported correctly;

(C) In the case of a return required to be filed under section 6050I(a), for any transaction (or related transactions), the greater of $25,000 or the amount of cash (within the meaning of section 6050I(d)) received in such transaction to the extent the amount of such cash does not exceed $100,000; or

(D) In the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return.

(5) *Computation of the penalty; aggregate dollar amount of the items required to be reported correctly.* The aggregate dollar amount used in computing the penalty under this paragraph (g) is the amount that is not reported or is reported incorrectly. If the intentional disregard relates to a dollar amount, the statutory percentage is applied to the difference between the dollar amount reported and the amount required to be reported correctly. If the intentional disregard relates to any other item on the return, the statutory percentage is applied to the aggregate amount of items required to be reported correctly. In determining the aggregate amount of items required to be reported correctly, no item will be taken into account more than once. For example, if a filer willfully fails to file a Form 1099–INT, *Interest Income,* on which $800 of interest and $160 of Federal income tax withheld (that is, backup withholding) is required to be reported, only the $800 amount is taken into account in computing the penalty.

(6) *Examples.* The provisions of this paragraph (g) may be illustrated by the following examples, which do not take into account any adjustments for inflation under paragraph (i) of this section:

(i) *Example 1.* On December 1, 2023, Automobile dealer P receives $55,000 from an individual for the purchase of an automobile in a transaction subject to reporting under section 6050I. The individual presents documents to P that identify him as *John Doe.* However, P completes the Form 8300 (relating to cash payments over $10,000 received in a trade or business) and reflects the name of a cartoon character as the filer. Because P knew at the time of filing the Form 8300 that the filer's name was not the name of the cartoon character, he willfully failed to include correct information as described under paragraph (g)(2) of this section.

Therefore, the penalty under paragraph (g)(4) of this section is imposed for the intentional disregard of the requirement to include correct information. The amount used in computing the penalty under paragraph (g)(5) of this section is $55,000 (that is, the amount required to be reported on the return with respect to which the payee is not correctly identified). The amount of the penalty determined under paragraph (g)(4)(iv)(C) of this section is $55,000 (that is, the greater of $25,000 or the amount of cash received in the transaction up to $100,000).

(ii) *Example 2.* On December 1, 2023, Individual B contacts his agent, F, to act as his intermediary in the purchase of an automobile. B gives F $20,000 and requests F to purchase the automobile in F's name, which F does. F prepares the Form 8300 as required under section 6050I, but in the area designated for the name of the filer, F writes *confidential.* Because F knew at the time the return was filed that it contained incomplete information, the penalty under paragraph (g)(4) of this section is imposed for the intentional disregard of the requirement to include correct information. The amount used in computing the penalty under paragraph (g)(5) of this section is $20,000 (that is, the amount required to be reported on the return with respect to which the payee is not correctly identified). The amount of the penalty determined under paragraph (g)(4)(iv)(C) of this section is $25,000 (that is, the greater of $25,000 or the amount of cash received in the transaction up to $100,000).

(iii) *Example 3.* Corporation M deliberately does not include $5,000 of dividends on a Form 1099–DIV, *Dividends and Distributions,* on which a total of $200,000 (including the $5,000 dividends) is required to be reported under section 6042(a). Because the failure was deliberate, M's failure is due to intentional disregard of the requirement to include correct information. Accordingly, the amount of the penalty imposed under paragraph (a) of this section is determined under paragraph (g)(4) of this section. Because the Form 1099–DIV is required to be filed under section 6042(a), under paragraph (g)(4)(iv)(A) of this section the amount of the penalty with respect to such failure is 10 percent of the aggregate dollar amount of the items that were required to be but that were not reported correctly. Under paragraph (g)(5) of this section, $5,000 is the difference between the dollar amount reported and the amount required to be reported correctly. Therefore, the amount of the penalty is $500 ($5,000 × 0.10 = $500).

(iv) *Example 4.* Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips,* requires certain large food and beverage establishments to report certain information with respect to tips. The form requires (among other things) that the establishment report its gross receipts from food and beverage operations. Establishment A, in intentional disregard of the information reporting requirement, reported gross receipts of $1,000,000, when the correct amount was $1,500,000. The significance of the gross receipts reporting requirement is that section 6053(c)(3)(A) requires an establishment to allocate as tips among its employees the excess of 8 percent of its gross receipts over the aggregate amount reported by employees to the establishment as tips under section 6053(a). A's misstatement of its gross receipts caused A to show $80,000 on the Form 8027 as 8 percent of its gross receipts, rather than the correct amount of $120,000. A correctly reported the amount of tips reported to it by employees under section 6053(a) as $80,000. Thus, A reported the excess of 8 percent of its gross receipts over tips reported to it as zero, rather than as the correct amount of $40,000. The requirement of reporting gross receipts is considered merely a step in the computation of the excess of 8 percent of gross receipts over tips reported to A under section 6053(a), so that the penalty for intentional disregard will be $4,000 (that is, 10 percent of the difference between the $40,000 required to be reported as the excess of 8 percent of gross receipts over tips reported under section 6053(a), and the zero amount actually reported).

(h) * * *

(1) *Information return.* For purposes of this section, the term *information return* has the same meaning as *information return* as defined in section 6724(d)(1), including any statement described in paragraph (h)(2) of this section, any return described in paragraph (h)(3) of this section, and any other items described in paragraph (h)(4) of this section.

(2) * * *

(x) Section 408(i) (relating to reports with respect to individual retirement accounts or annuities on Form 1099–R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*);

(xi) Section 6047(d) (relating to reports by employers, plan administrators, etc., on Form 1099–R); or

(xii) Section 6035 (relating to basis information with respect to property acquired from decedents, generally Form 8971, *Information Regarding Beneficiaries Acquiring Property From a Decedent,* and the Schedule(s) A required to be filed along with it).

(3) * * *

(xvii) Section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions, generally reported on Form 8594, *Asset Acquisition Statement*), or section 1060(e) (relating to information required in the case of certain transfers of interests in entities);

(xviii) Section 4101(d) (relating to information reporting with respect to fuel oils);

* * * * *

(xxiv) Section 6055 (relating to information returns reporting minimum essential coverage);

(xxv) Section 6056 (relating to information returns reporting on offers of health insurance coverage by applicable large employer members);

(xxvi) Section 6050Y (relating to returns relating to certain life insurance contract transactions); or

(xxvii) Section 6050Z (relating to reports relating to long-term care premium statements).

(4) *Other items.* The term *information return* also includes any form, statement, or schedule required to be filed with the IRS under chapter 4 of the Internal Revenue Code (the Code) or with respect to any amount from which tax is required to be deducted and withheld under chapter 3 of the Code (or from which tax would be required to be so deducted and withheld but for an exemption under the Code or any treaty obligation of the United States), including but not limited to Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding,* or Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax.*

* * * * *

(6) *Filer.* For purposes of this section the term *filer* means a person that is required to file an information return as defined in paragraph (h)(1) of this section under the applicable information reporting section described in paragraphs (h)(2) through (4) of this section.

(i) *Adjustment for inflation.* Each of the dollar amounts under paragraphs (a), (b), (f) (other than paragraph (f)(2)), and (g) of this section and section 6721(a), (b), (d) (other than section 6721(d)(2)(A)), and (e) will be adjusted for inflation pursuant to section 6721(f).

(j) *Applicability date.* This section applies with respect to information returns required to be filed on or after January 1, 2024. *See* 26 CFR 301.6721–

1, as revised April 1, 2023, for rules applicable prior to January 1, 2024.

■ **Par. 6.** Section 301.6722–1 is amended by:

■ 1. Revising paragraphs (a)(1), (a)(2)(ii), and (b)(2)(i);

■ 2. In paragraphs (b)(2)(ii) and (iii), removing the comma at the end of each paragraph and adding a semicolon in its place;

■ 3. In paragraphs (b)(2)(iii) and (iv), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;

■ 4. Revising paragraph (b)(3) introductory text;

■ 5. In paragraph (b)(3), designating *Examples 1* and *2* as paragraphs (b)(3)(i) and (ii); and

■ 6. In newly designated paragraph (b)(3)(ii), removing the language ''*Example 1*'' and adding ''paragraph (d)(3)(i) of this section (*Example 1*)'' in its place;

■ 7. Revising paragraph (c)(1);

■ 8. Redesignating paragraphs (c)(2)(i) through (iii) as paragraphs (c)(2)(ii) through (iv);

■ 9. Adding a new paragraph (c)(2)(i);

■ 10. Revising newly redesignated paragraphs (c)(2)(ii) and (iii);

■ 11. Redesignating paragraphs (d) and (e) as paragraphs (e) and (g);

■ 12. Adding a new paragraph (d);

■ 13. Revising newly redesignated paragraphs (e)(1), (e)(2) introductory text, and (e)(2)(xxxiii) and (xxxiv);

■ 14. Adding paragraphs (e)(2)(xxxv) through (xxxviii);

■ 15. In newly designated paragraph (e)(3):

■ i. Adding the language ''or 4'' after the language ''chapter 3'';

■ ii. Removing the language ''generally'' and adding the language ''including but not limited to'' in its place; and

■ iii. Removing the language ''subject'' and adding the language ''Subject'' in its place;

■ 16. Adding paragraphs (e)(4) and (f); and

■ 17. Revising newly redesignated paragraph (g).

The revisions and additions read as follows:

§ 301.6722–1 Failure to furnish correct payee statements.

(a) * * *

(1) *General rule.* A penalty of $250 is imposed for each *payee statement* (as defined in section 6724(d)(2) and paragraph (e)(2) of this section) with respect to which a *failure* (as defined in section 6722(a) and paragraph (a)(2) of this section) occurs. No more than one penalty will be imposed under this paragraph (a) with respect to a single payee statement even though there may be more than one failure with respect to such statement. However, the penalty will apply to failures on composite substitute payee statements as though each type of payment and other required information were furnished on separate statements. A *composite substitute payee statement* is a single document created by a filer to reflect several types of payments made to the same payee. The total amount imposed on any person for all failures during any calendar year with respect to all payee statements will not exceed $3,000,000. *See* section 6722(e) and paragraph (c) of this section for higher penalties if a failure is due to intentional disregard of the requirement to furnish timely correct payee statements. *See* paragraph (d) of this section for a safe harbor exception for certain de minimis errors. *See* paragraph (f) of this section for inflation adjustments to penalty amounts. *See* § 301.6724–1(a)(1) for a waiver of the penalty for a failure that is due to reasonable cause.

(2) * * *

(ii) A failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information (failure to include correct information). A failure to furnish timely includes a failure to furnish a written statement to the payee in a statement mailing as required under sections 6042(c), 6044(e), 6049(c), and 6050N(b), as well as a failure to furnish the statement on a form acceptable to the Internal Revenue Service (IRS). Except as provided in paragraph (b) or (d) of this section, a failure to include correct information encompasses a failure to include the information required by applicable information reporting statutes or by any administrative pronouncements issued thereunder (such as regulations, revenue rulings, revenue procedures, or information reporting forms).

(b) * * *

(2) * * *

(i) A dollar amount, except as provided in paragraph (d) of this section;

* * * * *

(3) *Examples.* The provisions of this paragraph (b) may be illustrated by the following examples, which do not take into account any possible application of the penalty for intentional disregard under paragraph (c) of this section, the safe harbor exception for certain de minimis errors under paragraph (d) of this section, or the reasonable cause waiver under § 301.6724–1(a):

* * * * *

(c) * * *

(1) *Application of section 6722(e).* If a failure is due to intentional disregard of the requirement to furnish timely correct payee statements, the amount of the penalty must be determined under paragraph (c)(2) of this section. Whether a failure is due to intentional disregard of the requirement to furnish timely correct payee statements is based upon the facts and circumstances surrounding the failure. The facts and circumstances considered include those under § 301.6721–1(g)(3), which will apply in determining whether a failure under this section is due to intentional disregard.

(2) * * *

(i) Paragraph (d) of this section will not apply;

(ii) The $3,000,000 limitation under paragraph (a) of this section will not apply and the penalty under this paragraph (c)(2) will not be taken into account in applying the $3,000,000 limitation to penalties not determined under this paragraph (c)(2);

(iii) The penalty imposed under paragraph (a) of this section will be $500 or, if greater, the statutory percentage; and

* * * * *

(d) *Safe harbor exception for certain de minimis errors*—(1) *In general.* Except as provided in paragraphs (c) and (d)(3) of this section, the penalty under section 6722(a) and paragraph (a) of this section is not imposed for a failure described in section 6722(a)(2)(B) and paragraph (a)(2)(ii) of this section (failure to include correct information on payee statement) if the failure relates to an incorrect dollar amount and is a de minimis error. If the safe harbor in this paragraph (d) applies to a payee statement and the payee statement was otherwise correct and timely furnished, no correction is required and, for purposes of this section, the payee statement is treated as having been furnished with all of the correct required information.

(2) *Definition of de minimis error.* For purposes of this paragraph (d), an error in a dollar amount is de minimis if the difference between any single amount in error and the correct amount is not more than $100, and, if the difference is with respect to an amount of tax withheld, it is not more than $25. For purposes of this paragraph (d)(2), tax withheld includes any amount required to be shown on an *information return* or *payee statement* (as defined in section 6724(d)(1) and (2), respectively) withheld under section 3102 or 3402, as well as any such amount required to be shown on such an information return or payee statement that is creditable under section 27, 31, 33, or 1474.

(3) *Election to override the safe harbor exception*—(i) *In general.* Except as

provided in paragraphs (d)(3)(vi) and (vii) of this section, the safe harbor exception provided for by this paragraph (d) does not apply to any payee statement if the person to whom the statement is required to be furnished (the payee) makes an election that the safe harbor not apply with respect to the statement.

(ii) *Timing of election.* The payee must elect no later than the later of 30 days after the date on which the payee statement is required to be furnished to the payee, or October 15 of the calendar year, to receive a correct payee statement required to be furnished in that calendar year without having the safe harbor under paragraph (d)(1) of this section apply. The date of an election is the date the election is received by the filer. For purposes of this section, the provisions of section 7502 relating to timely mailing treated as timely delivery apply in determining the date an election is considered to be received by the filer, treating delivery to the filer as if the filer were an agency, officer, or office under such section. The election will remain in effect for all subsequent years unless revoked under paragraph (d)(3)(vii) of this section.

(iii) *Manner for making the election.* Except as provided in paragraph (d)(3)(v) of this section, the payee must make the election by delivering the election in writing to the filer. Except as provided in paragraph (d)(3)(v) of this section, the written election must be made in writing on paper. The payee may deliver the election in person, by mail by United States Postal Service, or by a *designated delivery service* as defined under section 7502(f)(2). If the filer has not otherwise provided an address under paragraph (d)(3)(v) of this section, the payee must send the written election to the filer's address appearing on the payee statement furnished by the filer to the payee with respect to which the election is being made or as directed by that person upon appropriate inquiry by the payee. The written election must:

(A) Clearly state that the payee is making the election;

(B) Provide the payee's name, address, and *taxpayer identification number* (*TIN*) (as defined in section 7701(a)(41) of the Internal Revenue Code) to the filer;

(C) If the payee wants the election to apply only to specific types of statements, identify the type of payee statement(s) and account number(s), if applicable, to which the election applies (for example, Form 1099–DIV, *Dividends and Distributions*); and

(D) Provide any other information required by the IRS in forms, instructions, or publications.

(iv) *Payee statements to which the election applies.* An election by a payee under paragraph (d)(3)(i) of this section applies to all types of payee statements the filer is required to furnish to the payee, unless the payee specifies otherwise on the election under paragraph (d)(3)(iii)(C) of this section.

(v) *Reasonable alternative manner for making the election in cases of notification by the filer*—(A) *In general.* If the filer satisfies the requirements of paragraph (d)(3)(v)(B) of this section, and provides for a reasonable alternative manner as described in paragraph (d)(3)(v)(E) of this section, a payee may decide to make the election under paragraph (d)(3)(i) of this section pursuant to that reasonable alternative manner.

(B) *Notification of payee of reasonable alternative manner for making election.* The filer may elect to provide notification to the payee of a reasonable alternative manner to make the election under paragraph (d)(3)(i) of this section, as described in paragraph (d)(3)(v)(E) of this section. To provide a valid notification under this paragraph (d)(3)(v)(B), the filer must provide notification to the payee that:

(*1*) Is in writing (either on paper or in electronic format);

(*2*) Is timely provided to the payee under paragraph (d)(3)(v)(D) of this section;

(*3*) Explains to the payee to whom that filer is required to furnish a payee statement of the payee's ability to elect, under paragraph (d)(3)(i) of this section, that the safe harbor exceptions for de minimis errors not apply, and of the payee's ability to choose to make the election using the default method under paragraph (d)(3)(iii) of this section;

(*4*) Provides an address to which the payee may send an election under paragraphs (d)(3)(i) and (iii) of this section;

(*5*) Provides any reasonable alternative manner or manners, as described in paragraph (d)(3)(v)(E) of this section, that the filer is making available for the payee to make the election under paragraph (d)(3)(i) of this section; and

(*6*) Describes the information required for making the election described by paragraphs (d)(3)(iii)(A) through (D) of this section. Solely for purposes of the reasonable alternative manner, the notification may provide that some or all of the information described in paragraph (d)(3)(iii)(B) of this section is not required and may provide that the provision of an account number as referenced in paragraph (d)(3)(iii)(C) of this section is required if the payee decides to use the reasonable alternative manner for the election.

(C) *Notification of revocation procedures.* A notification under this paragraph (d)(3)(v) may also provide the procedures for making a revocation of an election under paragraph (d)(3)(vii) of this section. Solely for purposes of the reasonable alternative manner, the notification may provide that some or all of the information described in paragraph (d)(3)(vii)(B) of this section is not required and may provide that the provision of an account number as referenced in paragraph (d)(3)(vii)(E) of this section is required if the payee decides to use a reasonable alternative manner for making a revocation.

(D) *Time for providing notification of reasonable alternative manner for making payee election.* A notification under this paragraph (d)(3)(v) will be timely under paragraph (d)(3)(v)(B)(*2*) of this section if:

(*1*) The notification is provided with, or at the time of, the furnishing of the payee statement; or

(*2*) The filer previously provided a valid notification under paragraph (d)(3)(v) of this section to the payee with, or at the time of, the furnishing of a payee statement associated with a particular account, in which case notification will be considered to have been timely provided with respect to subsequent payee statements associated with that particular account. If the filer wishes to provide for a different reasonable alternative manner than a previous reasonable alternative manner, the filer must provide new notification in compliance with the timeliness rule of paragraph (d)(3)(v)(D)(*1*) of this section, and must accept payee elections under the previous reasonable alternative manner for a period of at least 60 days after the receipt of the new notification by the payee.

(E) *Reasonable alternative manner.* A reasonable alternative manner described in a notification under paragraph (d)(3)(v)(B) of this section may include that a payee election under paragraph (d)(3)(i) of this section may be made electronically (for example, via email or website) or telephonically. The reasonable alternative manner may not impose any prerequisite, condition, or time limitation on, or otherwise limit, the payee's ability to make an election under paragraph (d)(3)(iii) of this section, except as described in paragraphs (d)(3)(ii) and (iii) of this section; it may only offer a reasonable alternative manner or manners for making this election under this paragraph (d)(3)(v).

(vi) *Election not available for certain information.* The election to override

the safe harbor exception provided for by paragraph (d)(3)(i) of this section is not available with respect to information that may not be altered under specific information reporting rules. *See,* for example, § 1.6045–4(i)(5) of this chapter.

(vii) *Revocation of election.* The payee may revoke a prior election by submitting a revocation to the filer. The effect of a revocation of a prior election is that the safe harbor for certain de minimis errors will apply to the payee statements that the payee identifies and that are furnished or are due to be furnished after the revocation is received. The revocation will remain in effect until the payee makes a valid and timely election under paragraph (d)(3)(i) of this section. The date of a revocation is the date the revocation is received by the filer. For purposes of this section, the provisions of section 7502 relating to timely mailing treated as timely delivery apply in determining the date a revocation is considered to be received by the filer, treating delivery to the filer as if the filer were an agency, officer, or office under section 7502. The revocation must be made in the same manner or manners described for making the election, that is pursuant to either paragraph (d)(3)(iii) or (v) of this section, as the payee chooses if paragraph (d)(3)(v) of this section is applicable. Except as provided under paragraph (d)(3)(v)(B)(*6*) of this section, the revocation must:

(A) Clearly state that the payee is revoking the payee's prior election;

(B) Provide the payee's name, address, and TIN to the filer;

(C) Provide the name of the filer;

(D) Identify the type of payee statement(s) (for example, Form 1099–DIV) to which the revocation applies;

(E) Identify the account number(s), if applicable, to which the revocation applies; and

(F) Provide any other information required by the IRS in forms, instructions or publications.

(viii) *Reasonable cause. See* § 301.6724–1(h) for rules relating to waiver of the section 6722 penalty in cases where the safe harbor exception provided for by paragraph (d)(1) of this section does not apply because of an election under paragraph (d)(3)(i) of this section.

(4) *Record retention.* To facilitate proof of compliance with reporting and other obligations under the internal revenue laws, filers must retain records of any election or revocation by the payee under paragraph (d)(3)(i) or (vii) of this section, respectively, and any notification made under paragraph (d)(3)(v) of this section for as long as the contents of the election, revocation, or notification may be material in the administration of any internal revenue law. For rules regarding record retention, *see* section 6001 and § 1.6001–1 of this chapter. For additional procedures applicable to record retention in the context of electronic storage, *see* Rev. Proc. 97–22, 1997–1 C.B. 652, Rev. Proc. 98–25, 1998–1 C.B. 689, and any subsequently published guidance.

(5) *Examples.* The provisions of paragraphs (d)(1) through (4) of this section may be illustrated by the following examples, which do not address any possible application of the penalty for intentional disregard under paragraph (c) of this section or the reasonable cause waiver under § 301.6724–1(a):

(i) *Example 1*—(A) *Facts.* Filer W is required to file with the IRS by February 28, 2024, and furnish to Payee E by February 15, 2024, Form 1099–B *Proceeds From Broker and Barter Exchange Transactions,* because W is a broker who sold stocks on behalf of E resulting in proceeds of $5,000 during calendar year 2023. W properly withheld an amount of $1,736 under applicable backup withholding rules because E failed to furnish E's TIN to W. On the Form 1099–B, W reports as follows: Box 1d, Proceeds, $4,900; and Box 4, Federal income tax withheld, $1,761. W otherwise correctly and timely files and furnishes the Form 1099–B. E does not make an election under paragraph (d)(3)(i) of this section.

(B) *Analysis.* The safe harbor exception for de minimis errors provided for by paragraph (d)(1) of this section applies, because the differences between each of the amounts reported in error and the correct amounts are not more than the applicable limits. The error in the dollar amount reported in Box 1d, Proceeds, is de minimis because the difference between the amount in error ($4,900) and the correct amount ($5,000) is not more than $100; it is exactly $100. The error in the dollar amount reported in Box 4, Federal income tax withheld, is de minimis because the $25 difference between the amount in error ($1,761) and the correct amount ($1,736) is not more than $25, the limit for an error with respect to an amount reported for tax withheld.

(ii) *Example 2*—(A) *Facts.* The facts are the same as in paragraph (d)(5)(i)(A) of this section (*Example 1*), except that Filer W reports $1,710 as the amount in Box 4, Federal income tax withheld.

(B) *Analysis.* The safe harbor exception for de minimis errors provided for by paragraph (d)(1) of this section does not apply because the Form 1099–B contains a failure that is not a de minimis error. The difference between the amount in error ($1,710) and the correct amount ($1,736) is $26, which is more than the $25 limit for de minimis errors with respect to an amount reported for tax withheld.

(iii) *Example 3*—(A) *Facts.* In 2024, Filer X provides Payee B with valid notification of a reasonable alternative manner under paragraph (d)(3)(v) of this section for making the payee election under paragraph (d)(3)(i) of this section. B timely elects pursuant to the reasonable alternative manner during 2024. B elects the reasonable alternative manner with respect to all payee statements that X is required to furnish to B. In January 2025, X decides to provide for a different, but also valid, reasonable alternative manner; X provides notification of this different reasonable alternative manner to B, and B receives notification of this different reasonable alternative manner, pursuant to paragraph (d)(3)(v)(B) of this section, on January 16, 2025. B decides to revoke B's prior election, with respect to the Forms 1099–DIV that X is required to furnish to B.

(B) *Analysis.* Under paragraph (d)(3)(vii) of this section, Payee B may provide the revocation to Filer X in any of three different manners. First, B may provide the revocation to X in the same manner as if B were making an election under the default manner of paragraph (d)(3)(iii) of this section; B may do so at any time. Second, having received notification from X of the different reasonable alternative manner on January 16, 2025, B may provide the revocation to X in the same manner as if B were making an election under the different reasonable alternative manner pursuant to paragraph (d)(3)(v) of this section. Third, because X previously provided notification of a reasonable alternative manner (2024 alternative) before providing notification of a different reasonable alternative manner on January 16, 2025 (2025 alternative), B may provide the revocation to X in the same manner as if B were making an election under the previous reasonable alternative manner (2024 alternative); B may do so for a period of 60 days after January 16, 2025, pursuant to paragraph (d)(3)(v)(D)(*2*) of this section.

(iv) *Example 4*—(A) *Facts.* In 2024, Filer Y furnishes, as required, a Form W–2, *Wage and Tax Statement,* to Payee C for wages paid in 2023. The correct version of this Form W–2, without any errors, de minimis or otherwise, would have reported $15,200 of Federal income tax withheld, $6,200 of social security tax withheld, $1,450 of Medicare tax withheld, and $6,000 of

state income tax withheld. However, the Form W–2 that Y furnishes to C reports $15,180 of Federal income tax withheld, $6,180 of social security tax withheld, $1,430 of Medicare tax withheld, and $5,980 of state income tax withheld. The 2023 Form W–2 does not require reporting a sum total of tax withheld of all types. C does not make an election under paragraph (d)(3)(i) of this section.

(B) *Analysis.* For each of the four amounts of tax withheld, the difference between the amount of tax withheld that is reported on the Form W–2 and the correct amount is $20. Under paragraph (d)(2) of this section, each of these errors is a de minimis error because each is with respect to an amount of tax withheld and is not more than $25. If there are no other errors on the Form W–2, the safe harbor exception for de minimis errors provided for by paragraph (d)(1) of this section applies. The amounts of tax withheld are not combined in determining whether an error constitutes a de minimis error, if a combined amount is not required to be reported on the payee statement.

(v) *Example 5*—(A) *Facts.* In 2024, Filer Z furnishes, as required, a Form W–2 to Payee D for wages paid in 2023. The correct version of this Form W–2, without any errors, de minimis or otherwise, would have reported $15,200 of Federal income tax withheld, $6,200 of social security tax withheld, $1,450 of Medicare tax withheld, $6,000 of state income tax withheld, and no other taxes withheld. The Form W–2 that Z furnishes to D reports $15,170 of Federal income tax withheld, $6,220 of social security tax withheld, and the correct amount of Medicare tax withheld and state income tax withheld.

(B) A single amount of tax withheld reported on the Form W–2, specifically the amount of Federal income tax withheld, differs from the correct amount by more than $25. Under paragraph (d)(2) of this section, this error is not a de minimis error. Therefore, the safe harbor exception for de minimis errors provided for by paragraph (d)(1) of this section does not apply. It is irrelevant that the sum total of taxes withheld reported on the Form W–2 ($28,840) differs from the correct total of taxes withheld ($28,850) by less than $25.

(6) *Voluntary corrections.* Regardless of whether the de minimis error safe harbor in this paragraph (d) provides an exception for not furnishing a particular corrected payee statement, the corrected payee statement may be furnished voluntarily if a corresponding information return reflecting the information reported on the corrected payee statement is concurrently filed.

(7) *Limitations on applicability.* The safe harbor exception provided for by paragraph (d)(1) of this section applies only for the purposes of payee statement penalties under section 6722. Accordingly, this safe harbor exception applies to the reporting of amounts on payee statements, including the reporting of the withholding of tax on payee statements, but does not apply for purposes of any underlying requirements to withhold or pay tax. Interest, penalties, and other additions to tax may be imposed under other sections for under-withholding or underpaying tax in any amount.

(e) * * *

(1) *Payee. See* § 301.6721–1(h)(5) for the definition of *payee.*

(2) *Payee statement.* For purposes of this section the term *payee statement* has the same meaning as *payee statement* as defined by section 6724(d)(2), including any statement required to be furnished under—

* * * * *

(xxxiii) Section 6055 (relating to information returns reporting minimum essential coverage);

(xxxiv) Section 6056 (relating to information returns reporting on offers of health insurance coverage by applicable large employer members);

(xxxv) Section 6035, other than a statement described in section 6724(d)(1)(D), (relating to basis information with respect to property acquired from decedents, generally Schedule A of Form 8971, *Information Regarding Beneficiaries Acquiring Property From a Decedent*);

(xxxvi) Section 6050Y(a)(2), 6050Y(b)(2), or 6050Y(c)(2) (relating to certain life insurance contract transactions);

(xxxvii) Section 6226(a)(2) (regarding statements relating to alternative to payment of imputed underpayment by a partnership) or under any other provision of this title that provides for the application of rules similar to section 6226(a)(2); or

(xxxviii) Section 6050Z (relating to reports relating to long-term care premium statements).

* * * * *

(4) *Filer.* For purposes of this section the term *filer* means a person that is required to furnish a *payee statement* as defined in paragraph (e)(2) and (3) of this section under the applicable information reporting section described in paragraph (e)(2) and (3) of this section.

(f) *Adjustment for inflation.* Each of the dollar amounts under paragraphs (a), (b), and (c) of this section and paragraphs (a), (b), (d)(1), and (e) of section 6722 will be adjusted for inflation pursuant to section 6722(f).

(g) *Applicability date.* This section applies with respect to payee statements required to be furnished on or after January 1, 2024. *See* 26 CFR 301.6722–1, as revised April 1, 2023, for rules applicable prior to January 1, 2024.

■ **Par. 7.** Section 301.6724–1 is amended by:

■ 1. Revising paragraphs (a)(1) and (a)(2)(ii);

■ 2. Designating the undesignated paragraph following paragraph (a)(2)(ii) as paragraph (a)(2)(iii) and revising newly designated paragraph (a)(2)(iii);

■ 3. Revising paragraphs (b) introductory text and (b)(2)(i) and (ii);

■ 4. Designating the undesignated paragraph following paragraph (b)(2)(ii) as paragraph (b)(3);

■ 5. In paragraph (c)(1)(iii), adding ''(IRS)'' after ''Internal Revenue Service'';

■ 6. Revising paragraph (c)(3)(ii);

■ 7. In paragraphs (c)(4) and (c)(6)(ii), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;

■ 8. Revising paragraphs (e)(1) introductory text and (e)(1)(i) and the first sentence of paragraph (e)(1)(vi)(A);

■ 9. Removing paragraph (e)(1)(vi)(E);

■ 10. Redesignating paragraphs (e)(1)(vi)(F) and (G) as paragraphs (e)(1)(vi)(E) and (F) and revising newly redesignated paragraphs (e)(1)(vi)(E) and (F);

■ 11. In paragraphs (e)(2)(i)(A) and (e)(2)(ii)(C) and (E), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;

■ 12. Revising paragraphs (f)(1) introductory text and (f)(1)(i);

■ 13. In paragraph (f)(1)(ii), removing ''Internal Revenue Service'' and adding ''IRS'' in its place;

■ 14. Revising paragraphs (f)(5)(i) and (ii), (g), (h), (k), (m) introductory text, and (m)(1);

■ 15. In paragraphs (m)(2) and (3), removing the comma at the end of the paragraphs and adding a semicolon in its place;

■ 16. In paragraph (n), removing ''Internal Revenue Service'' and adding ''IRS'' in its place; and

■ 17. Adding paragraph (o).

The revisions and additions read as follows:

§ 301.6724–1 Reasonable cause.

(a) * * *

(1) *General rule.* The penalty for a failure relating to an *information reporting requirement* as defined in paragraph (j) of this section is waived if the failure is due to reasonable cause and is not due to willful neglect.

(2) * * *

(ii) The failure arose from events beyond the filer's control (impediment), as described in paragraph (c) of this section.

(iii) Moreover, the filer must establish that the filer acted in a responsible manner, as described in paragraph (d) of this section, both before and after the failure occurred. Thus, if the filer establishes that there are significant mitigating factors for a failure but is unable to establish that the filer acted in a responsible manner, the mitigating factors will not be sufficient to obtain a waiver of the penalty. Similarly, if the filer establishes that a failure arose from an impediment but is unable to establish that the filer acted in a responsible manner, the impediment will not be sufficient to obtain a waiver of the penalty. *See* paragraph (g) of this section for the reasonable cause safe harbor for persons who exercise due diligence. *See* paragraph (h) of this section for the reasonable cause safe harbor after an election under section 6722(c)(3)(B) and § 301.6722–1(d)(3).

(b) *Significant mitigating factors.* In order to establish reasonable cause under this paragraph (b), the filer must satisfy paragraph (d) of this section and must show that there are significant mitigating factors for the failure. *See* paragraph (c)(5) of this section for the application of this paragraph (b) to failures attributable to the actions of a filer's agent. The applicable mitigating factors include, but are not limited to—

* * * * *

(2) * * *

(i) Whether the filer has incurred any penalty under § 301.6721–1, § 301.6722–1, or § 301.6723–1 in prior years for the failure; and

(ii) If the filer has incurred any such penalty in prior years, the extent of the filer's success in lessening its error rate from year to year.

* * * * *

(c) * * *

(3) * * *

(ii) The cost of filing on magnetic media or in electronic form was prohibitive as determined at least 45 days before the due date of the returns (without regard to extensions);

* * * * *

(e) * * *

(1) *In general.* A filer that is seeking a waiver for reasonable cause under paragraph (c)(6) of this section will satisfy paragraph (d)(2) of this section with respect to establishing that a failure to include a TIN on an information return resulted from the failure of the payee to provide information to the filer (that is, a missing TIN) only if the filer makes the initial and, if required, the annual solicitations described in this paragraph (e) (required solicitations). For purposes of this section, a number is treated as a *missing TIN* if the number does not contain nine digits or includes one or more alpha characters (a character or symbol other than an Arabic numeral) as one of the nine digits. A solicitation means a request by the filer for the payee to furnish a correct TIN. *See* paragraph (f) of this section for the rules that a filer must follow to establish that the filer acted in a responsible manner with respect to providing incorrect TINs on information returns. *See* paragraph (e)(1)(vi)(A) of this section for alternative solicitation requirements. *See* paragraph (g) of this section for the safe harbor due diligence rules.

(i) *Initial solicitation.* An initial solicitation for a payee's correct TIN must be made at the time an account is opened. The term *account* includes accounts, relationships, and other transactions. However, a filer is not required to make an initial solicitation under this paragraph (e)(1)(i) with respect to a new account if the filer has the payee's TIN and uses that TIN for all accounts of the payee. For example, *see* § 31.3406(h)–3(a) of this chapter. If the account is opened in person, the initial solicitation may be made by oral or written request, such as on an account creation document. If the account is opened by mail, telephone, or other electronic means, the TIN may be requested through such communications. If the account is opened by the payee's completing and mailing an application furnished by the filer that requests the payee's TIN, the initial solicitation requirement is considered met. If a TIN is not received as a result of an initial solicitation, the filer may be required to make additional solicitations (annual solicitations).

* * * * *

(vi) * * *

(A) The solicitation requirements under this paragraph (e) do not apply to the extent an information reporting provision under which a *return,* as defined in paragraph (h) of § 301.6721–1, is filed provides specific requirements relating to the manner or the time period in which a TIN must be solicited. * * *

* * * * *

(E) A filer is not required to make annual solicitations by mail on accounts with respect to which the filer has an undeliverable address, that is, where other mailings to that address have been returned to the filer because the address was incorrect and no new address has been provided to the filer.

(F) Except as provided in paragraphs (e)(1)(vi)(A) and (C) of this section, no more than two annual solicitations are required under this paragraph (e) in order for a filer to establish reasonable cause.

* * * * *

(f) * * *

(1) *In general.* A filer that is seeking a waiver for reasonable cause under paragraph (c)(6) of this section will satisfy paragraph (d)(2) of this section with respect to establishing that a failure resulted from incorrect information provided by the payee or any other person (that is, inclusion of an incorrect TIN) on an information return only if the filer makes the initial and annual solicitations described in this paragraph (f). *See* paragraph (e)(1) of this section for the definition of the term *solicitation. See* paragraph (f)(5)(i) of this section for alternative solicitation requirements. *See* paragraph (g) of this section for the safe harbor due diligence rules.

(i) *Initial solicitation.* An initial solicitation for a payee's correct TIN must be made at the time the account is opened. The term *account* includes accounts, relationships, and other transactions. However, a filer is not required to make an initial solicitation under this paragraph (f)(1)(i) with respect to a new account if the filer has the payee's TIN and uses that TIN for all accounts of the payee. For example, *see* § 31.3406(h)–3(a) of this chapter. No additional solicitation is required after the filer receives the TIN unless the IRS or, in some cases, a broker notifies the filer that the TIN is incorrect. Following such notification the filer may be required to make an annual solicitation to obtain the correct TIN as provided in paragraphs (f)(1)(ii) and (iii) of this section.

* * * * *

(5) * * *

(i) The solicitation requirements under this paragraph (f) do not apply to the extent that an information reporting provision under which a *return,* as defined in § 301.6721–1(h), is filed provides specific requirements relating to the manner or the time period in which a TIN must be solicited. In that event, the requirements of this paragraph (f) will be satisfied only if the filer complies with the manner and time period requirement under the specific information reporting provisions and this paragraph (f), to the extent applicable.

(ii) An annual solicitation is not required to be made for a year under this paragraph (f) with respect to an account if no payments are made to the

account for such year or if no *return* as defined in § 301.6721–1(h) is required to be filed for the account for such year.

* * * * *

(g) *Due diligence safe harbor*—(1) *In general.* A filer may establish reasonable cause with respect to a failure relating to an information reporting requirement as described in paragraph (j) of this section if the filer exercises due diligence with respect to failures described in sections 6721 through 6723. Paragraphs (g)(2) through (7) of this section provide special rules on the exercise of due diligence with respect to TINs for an exception to a penalty under sections 6721 through 6723 for—

(i) A failure to provide a correct TIN on any—

(A) *Information return* as defined in § 301.6721–1(h);

(B) *Payee statement* as defined in § 301.6722–1(e)(2) and (3); or

(C) Document as described in § 301.6723–1(a)(4); or

(ii) The failure merely to provide a TIN as described in § 301.6723–1(a)(4)(ii).

(2) *General rule.* A filer is not subject to a penalty for failure to provide the payee's correct TIN on an information return, if the payee has certified, under penalties of perjury, that the TIN provided to the filer was the payee's correct TIN, and the filer included such TIN on the information return before being notified by the IRS (or a broker) that such TIN is incorrect.

(3) *Due diligence defined for accounts opened and instruments acquired after December 31, 1983*—(i) *In general.* For a filer of a reportable interest or dividend payment (other than in a window transaction) to be considered to have exercised *due diligence* in furnishing the correct TIN of a payee with respect to an account opened or an instrument acquired after December 31, 1983 (that is, an account or instrument that is not a pre-1984 account nor a window transaction), the filer must use a TIN provided by the payee under penalties of perjury on information returns filed with the IRS. Therefore, if a filer permits a payee to open an account without obtaining the payee's TIN under penalties of perjury and files an information return with the IRS with a missing or an incorrect TIN, the filer will be liable for the $250 penalty for the year with respect to which such information return is filed. However, in its administrative discretion, the IRS will not enforce the penalty with respect to a calendar year if the certified TIN is obtained after the account is opened and before December 31 of such year, provided that the filer exercises due diligence in processing such number, that is, the filer uses the same care in processing the TIN provided by the payee that a reasonably prudent filer would use in the course of the filer's business in handling account information such as account numbers and balances.

(ii) *Notification of incorrect TIN.* Once notified by the IRS (or a broker) that a number is incorrect, a filer is liable for the penalty for all prior years in which an information return was filed with that particular incorrect number if the filer has not exercised due diligence with respect to such years. A pre-existing certified TIN does not constitute an exercise of due diligence after the IRS or a broker notifies the filer that the number is incorrect unless the filer undertakes the actions described in § 31.3406(d)–5(d)(2)(i) of this chapter with respect to accounts receiving reportable payments described in section 3406(b)(1) and reported on information returns described in sections 6724(d)(1)(A)(i) through (iv).

(iii) *Inadvertent processing.* A filer described in this paragraph (g)(3) is liable for the penalty if the filer obtained a certified TIN for a payee but inadvertently processed the TIN or name incorrectly on the information return unless the filer exercised that degree of care in processing the TIN and name and in furnishing it on the information return that a reasonably prudent filer would use in the course of the filer's business in handling account information, such as account numbers and account balances.

(4) *Instruments not transferred with assistance of broker*—(i) *In general.* If a filer files an information return with a missing or an incorrect TIN with respect to an instrument transferred without the assistance of a broker, the filer will be considered to have exercised due diligence with respect to a readily tradable instrument that is not part of a pre-1984 account with the filer if the filer records on its books a transfer in which the filer was not a party. This paragraph (g)(4)(i) applies until the calendar year in which the filer receives a certified TIN from the payee.

(ii) *Solicitation of TIN not required.* A filer described in paragraph (g)(4)(i) of this section is not required to solicit the TIN of a payee of an account with a missing TIN in order to be considered as having exercised due diligence in a subsequent calendar year under the rule set forth in paragraph (g)(4)(i) of this section.

(iii) *Payee provides incorrect TIN.* If a payee provides a TIN (whether or not certified) to a filer described in paragraph (g)(4)(i) of this section who records on its books a transfer in which it was not a party, the filer is considered to have exercised due diligence under the rule set forth in paragraph (g)(4)(i) of this section if the transfer is accompanied with a TIN provided that the filer uses the same care in processing the TIN provided by a payee that a reasonably prudent filer would use in the course of the filer's business in handling account information, such as account numbers and account balances. Thus, a filer will not be liable for the penalty if the filer uses the TIN provided by the payee on information returns that it files, even if the TIN provided by the payee is later determined to be incorrect. However, a filer will not be considered as having exercised due diligence under paragraph (g)(4)(i) of this section after the IRS or a broker notifies the filer that the number is incorrect unless the filer undertakes the required additional actions described in paragraph (g)(2) of this section.

(5) *Filer incurred an undue hardship*—(i) *In general.* A filer of a post-1983 account or instrument is not liable for a penalty under section 6721(a) for filing an information return with a missing or an incorrect TIN if the IRS determines that the filer could have satisfied the due diligence requirements but for the fact that the filer incurred an undue hardship. An undue hardship is an extraordinary or unexpected event such as the destruction of records or place of business of the filer by fire or other casualty (or the place of business of the filer's agent who under a pre-existing written contract had agreed to fulfill the filer's due diligence obligations with respect to the account subject to the penalty and there was no means for the obligations to be performed by another agent or the filer). Undue hardship will also be found to exist if the filer could have met the due diligence requirements only by incurring an extraordinary cost.

(ii) *Only IRS makes undue hardship determinations.* A filer must obtain a determination from the IRS to establish that the filer satisfies the undue hardship exception to the penalty under section 6721(a) for the failure to include the correct TIN on an information return for the year with respect to which the filer is subject to the penalty. A determination of undue hardship may be established only by submitting a written statement to the IRS signed under penalties of perjury that sets forth all the facts and circumstances that make an affirmative showing that the filer could have satisfied the due diligence requirements but for the occurrence of an undue hardship. Thus,

the statement must describe the undue hardship and make an affirmative showing that the filer either was in the process of exercising or stood ready to exercise due diligence when the undue hardship occurred. A filer may request an undue hardship determination by submitting a written statement to the address provided with the notice proposing penalty assessment (for example, Notice 972CG) or the notice of penalty assessment (for example, CP15 or CP215), or as otherwise directed by the IRS in forms, instructions, or publications.

(6) *Acquisitions of pre-1984 accounts or instruments*—(i) *In general.* A pre-1984 account or instrument of a filer that is exchanged for an account or instrument of another filer pursuant to a statutory merger of the other filer or the acquisition of the accounts or instruments of such filer is not transformed into a post-1983 account or instrument if the merger or acquisition occurs after December 31, 1983, because the exchange occurs without the participation of the payee.

(ii) *Establishing due diligence was exercised for accounts or instruments.* The acquiring taxpayer described in this paragraph (g)(6) may rely upon the business records and past procedures of the merged filer or the filer whose accounts or instruments were acquired in order to establish that due diligence has been exercised on the acquired pre-1984 and post-1983 accounts or instruments to avoid the penalty under section 6721(a) with respect to information returns that have been or will be filed.

(7) *Limited reliance on certain pre-2001 rules.* A filer may rely on the due diligence rules set forth in 26 CFR 35a.9999–1, 35a.9999–2, and 35a.9999–3 in effect prior to January 1, 2001 (*see* 26 CFR 35a.9999–1, 35a.9999–2, and 35a.9999–3, revised April 1, 1999), solely for the definitions of terms or phrases used in this paragraph (g).

(h) *Reasonable cause safe harbor after election under section 6722(c)(3)(B).* A filer may establish reasonable cause with respect to a failure relating to an information reporting requirement as described in paragraph (j) of this section under this paragraph (h) if the failure is a result of an election under § 301.6722–1(d)(3)(i) and the presence of a de minimis error or errors as described in sections 6721(c)(3) and 6722(c)(3) and §§ 301.6721–1(e) and 301.6722–1(d) on a filed information return or furnished payee statement. This paragraph (h) applies only if the safe harbor exceptions provided for by § 301.6721–1(e)(1) or § 301.6722–1(d)(1) would have applied, but for an election under § 301.6722–1(d)(3)(i). To establish reasonable cause and not willful neglect under this paragraph (h), the filer must file a corrected information return or furnish a corrected payee statement, or both, as applicable, within 30 days of the date of the election under § 301.6722–1(d)(3)(i). Where specific rules provide for additional time in which to furnish a corrected payee statement and file a corrected information return, the 30-day rule does not apply and the specific rules will apply. *See* for example §§ 31.6051–1(c) through (d) and 31.6051–2(b). If the filer rectifies the failure outside of this 30-day period, the determination of reasonable cause will be on a case-by-case basis.

* * * * *

(k) *Examples.* The provisions of this section may be illustrated by the following examples:

(1) *Example 1*—(i) *Facts.* On August 1, 2023, Individual A, an independent contractor, establishes a relationship (account) with Institution L, which pays A amounts reportable under section 6041. When A opens the account L requests that A supply his TIN on the account creation document. A fails to provide his TIN. On October 2, 2023, L mails a solicitation for A's TIN that satisfies the requirement of paragraph (e)(1)(ii) of this section. A does not provide a TIN to L during 2023. L timely files an information return subject to section 6721, that does not contain A's TIN, for payments made during the 2023 calendar year with respect to A's account. A penalty is imposed on L, pursuant to § 301.6721–1(a)(2), for L's failure to file a correct information return because A's TIN was not shown on the return. The penalty will be waived, however, if L establishes that the failure was due to reasonable cause as defined in this section.

(ii) *Analysis.* To establish reasonable cause under this section, L must satisfy both paragraphs (c)(6) and (d) of this section. The criteria for obtaining a waiver under paragraphs (c)(6) and (d) of this section are as follows:

(A) L acted in a responsible manner in attempting to satisfy the information reporting requirement as described in paragraph (d) of this section; and

(B) L demonstrates that the failure arose from events beyond L's control, as described in paragraph (c)(6) of this section.

(iii) *Analysis (continued).* Pursuant to paragraph (d)(2) of this section, L may demonstrate that it acted in a responsible manner only by complying with paragraph (e) of this section. Paragraph (e) of this section requires a filer to request a TIN at the time the account is opened (the initial solicitation) and, if the filer does not receive the TIN at that time, to solicit the TIN on or before December 31 of the year the account is opened (for accounts opened before December) or January 31 of the following year (for accounts in the preceding December) (the annual solicitation). Because L has performed these solicitations within the time and in the manner prescribed by paragraph (e) of this section, L has acted in a responsible manner as described in paragraph (d) of this section. L satisfies paragraph (c)(6) of this section because under the facts, L can show that the failure was caused by A's failure to provide a TIN, an event beyond L's control. As a result, L has established reasonable cause under paragraph (a)(2) of this section. Therefore, the penalty imposed under § 301.6721–1(a)(2) for the failure on the 2023 information return is waived. *See* section 3406(a)(1)(A), which requires L to impose backup withholding on reportable payments to A if L has not received A's TIN.

(2) *Example 2*—(i) *Facts.* On August 1, 2023, Individual B opens an account with Bank M, which pays B interest reportable under section 6049. When B opens the account, M requests that B supply his TIN on the account creation document. B provides his TIN to M. On February 28, 2024, M includes the TIN that B provided on the Form 1099–INT, *Interest Income,* for the 2023 calendar year. In October 2024 the IRS, pursuant to section 3406(a)(1)(B), notifies M that the 2023 return filed for B contains an incorrect TIN. In April 2025 a penalty is imposed on M, pursuant to § 301.6721–1(a)(2), for M's failure to file a correct information return for the 2023 calendar year, that is, the return did not contain B's correct TIN. The penalty will be waived, however, if M establishes that the failure was due to reasonable cause as defined in this section.

(ii) *Analysis.* To establish reasonable cause under this section, M must satisfy the criteria in both paragraphs (c)(6) and (d) of this section. Pursuant to paragraph (d)(2) of this section, M can demonstrate that it acted in a responsible manner only if M complies with paragraph (f) of this section. Paragraph (f) of this section requires a filer to request a TIN at the time the account is opened, an initial solicitation. Under paragraph (f)(4) of this section the initial solicitation relates to failures on returns filed for the year an account is opened. Because M performed the initial solicitation in 2023 in the time and manner prescribed

in paragraph (f)(1)(i) of this section and reflected the TIN received from B on the 2023 return as required by paragraph (f)(1)(iv) of this section, M has acted in a responsible manner as described in paragraph (d) of this section. M satisfies paragraph (c)(6) of this section because, under the facts, M can show that the failure was caused by B's failure to provide a correct TIN, an event beyond M's control. As a result, M has established reasonable cause under paragraph (a)(2) of this section. Therefore, the penalty imposed under § 301.6721–1(a)(2) for the failure on the 2023 information return is waived. *See* section 3406(a)(1)(B), which requires M to impose backup withholding on reportable payments to B if M has not received B's correct TIN.

(3) *Example 3*—(i) *Table.*

TABLE 1 TO PARAGRAPH (k)(3)(i)

2023	2/2024	10/2024	2/2025
Account opened (solicits TIN)	2023 return filed	B-notice with respect to 2023 return.	2024 return filed.
4/2025	10/2025	2/2026	4/2026
6721 penalty notice for 2023 return	B-notice with respect to 2024 return.	2025 return filed	6721 penalty notice for 2024.

(ii) *Facts.* The facts are the same as in paragraph (k)(2)(i) of this section (*Example 2*). Under § 31.3406(d)–5(d)(2)(i) of this chapter and paragraph (f)(3) of this section, within 15 days of the October 2024 notification of the incorrect TIN from the IRS, M solicits the correct TIN from B. B fails to respond. M timely files the return for 2024 with respect to the account setting forth B's incorrect TIN. In October 2025 the IRS notifies M, pursuant to section 3406(a)(1)(B), that the 2024 return contains an incorrect TIN. In April 2026, a penalty is imposed on M pursuant to § 301.6721–1(a)(2) for M's failure to include B's correct TIN on the return for 2024. The penalty will be waived, if M establishes that the failure was due to reasonable cause as defined in this section.

(iii) *Analysis.* M must satisfy the reasonable cause criteria in paragraphs (c)(6) and (d) of this section. M may demonstrate that it acted in a responsible manner as required under paragraph (d) of this section only by complying with paragraph (f) of this section. Paragraph (f) of this section requires a filer to make an initial solicitation for a TIN when an account is opened. Further, a filer must make an annual solicitation for a TIN by mail within 15 business days after the date that the IRS notifies the filer of an incorrect TIN pursuant to section 3406(a)(1)(B). M made the initial solicitation for the TIN in 2023 and, after being notified of the incorrect TIN in October 2024, the first annual solicitation within the time and manner prescribed by § 31.3406(d)–5(d)(2)(i) of this chapter and paragraphs (f)(1)(ii) and (f)(2) of this section. M acted in a responsible manner. M satisfies paragraph (c)(6) of this section because, under the facts, M can show that the failure was caused by B's failure to provide his correct TIN, an event beyond M's control. As a result M has established reasonable cause under paragraph (a)(2) of this section. Therefore, the penalty imposed under § 301.6721–1(a)(2) for the failure on the 2024 return is waived due to reasonable cause.

(4) *Example 4*—(i) *Table.*

TABLE 2 TO PARAGRAPH (k)(4)(i)

2023	2/2024	10/2024	2/2025
Account opened (solicits TIN)	2023 return filed	B-notice with respect to 2023 return.	2024 return filed.
4/2025	10/2025	2/2026	4/2026
6721 penalty notice for 2023 return	B-notice with respect to 2024 return.	2025 return filed	6721 penalty notice for 2024 return.

(ii) *Facts.* The facts are the same as in paragraph (k)(3)(ii) of this section (*Example 3*). M timely solicits B's TIN in October 2025, which B fails to provide. M files the return for 2025 with the incorrect TIN. In April 2027 the IRS informs M that the 2025 return contains an incorrect TIN. M does not solicit a TIN from B in 2026 and files a return for 2026 with B's incorrect TIN. M seeks a waiver of the penalty under § 301.6721–1(a)(2) for reasonable cause.

(iii) *Analysis.* M must satisfy the reasonable cause criteria in paragraphs (c)(6) and (d) of this section. Because M made the initial and two annual solicitations as required by paragraph (f) of this section, M has demonstrated that it acted in a responsible manner and is not required to solicit B's TIN in 2026. *See* paragraph (f)(5)(vi) of this section. M satisfies paragraph (c)(6) of this section because, under the facts, M can show that the failure was caused by B's failure to provide his correct TIN, an event beyond M's control. Therefore, M has established reasonable cause under paragraph (a)(2) of this section.

(5) *Example 5*—(i) *Facts.* In 2023, Mortgage Finance Company N lends money to C to purchase property in a transaction subject to reporting under section 6050H. As part of the transaction, C gives N a promissory note providing for repayment of principal and the payment of interest. At the time C incurs the obligation N requests C's TIN, as required under § 1.6050H–2(f) of this chapter. C fails to provide the TIN as required by § 1.6050H–2(f) of this chapter. N sends solicitations by mail in 2023 and 2024 for the missing TIN, which C fails to provide. However, for 2025 N fails to send the solicitation required by § 1.6050H–2(f) of this chapter. N files returns for the 2023, 2024, and 2025 calendar years pursuant to section 6050H without C's TIN.

(ii) *Analysis.* Although N made the initial and the first annual solicitations in 2023 and the second annual solicitation in 2024, N did not solicit the TIN in 2025 as required under section 6050H, which requires continued annual solicitations until the TIN is obtained. Therefore, under paragraph (e)(1)(vi)(A) of this section the penalty imposed under § 301.6721–1(a) for the 2025 information return is not waived.

(6) *Example 6*—(i) *Table.*

TABLE 3 TO PARAGRAPH (k)(6)(i)

10/2023	2/2024	10/2024	2/2025
Account opened. (solicits TIN)	2023 return filed	B-notice with respect to 2023 return.	2024 return filed.
4/2025	10/2025	2/2026	4/2026
6721 penalty notice for 2023 return	B-notice with respect to 2024 return.	2025 return filed	6721 penalty notice for 2024 return.

(ii) *Facts.* On October 2, 2023, Individual E opens an account with Institution R, which pays E amounts reportable under section 6049. When E opens the account, R requests that E supply his TIN on an account creation document, which E does. Pursuant to paragraph (f)(1)(iv) of this section, R uses the TIN furnished by E on the information return filed for the 2023 calendar year. In October 2024 the IRS notifies R, pursuant to section 3406(a)(1)(B), that the information return filed for E for the 2023 calendar year contained an incorrect TIN. At the time R receives this notification, E's account contains the incorrect TIN. On December 31, 2024, R telephones E pursuant to paragraphs (f)(2) and (e)(2)(ii) of this section and receives different TIN information from E. R uses this information on the return that it files timely for E for the 2024 calendar year, that is, in February 2025. In April 2025, the IRS notifies R, pursuant to § 301.6721–1(a)(2), that the information return filed for the 2023 calendar year contains an incorrect TIN. The penalty will be waived, however, if R establishes the failure was due to reasonable cause as defined in this section.

(iii) *Analysis.* To establish reasonable cause under this section, R must satisfy the criteria in both paragraphs (c)(6) and (d)(2) of this section. Pursuant to paragraph (d)(2) of this section, R can demonstrate that it acted in a responsible manner only if it complies with paragraph (f) of this section. R solicited E's TIN at the time the account was opened (initial solicitation). Under paragraphs (d)(2) and (f)(4) of this section, the initial solicitation relates to failures on returns filed for the year in which an account is opened (that is, 2023) and for subsequent years until the calendar year in which the filer receives a notification of an incorrect TIN pursuant to section 3406. Because E failed to provide the correct TIN upon request, the failure arose from events beyond R's control as described in paragraph (c)(6) of this section. Therefore, the penalty with respect to the failure on the 2023 calendar year information return is waived due to reasonable cause.

(7) *Example 7*—(i) *Facts.* The facts are the same as in paragraph (k)(6)(ii) of this section (*Example 6*). In April 2026 the IRS notifies R, pursuant to § 301.6721–1(a)(2), that the information return filed for the 2024 calendar year for E contained an incorrect TIN.

(ii) *Analysis.* To establish reasonable cause for the failure under this section, R must satisfy the criteria in both paragraphs (c)(6) and (d)(2) of this section. Pursuant to paragraph (d)(2) of this section, R may establish that it acted in a responsible manner only by complying with paragraph (f) of this section. Pursuant to paragraph (f)(1)(ii) of this section, R must make an annual solicitation after being notified of an incorrect TIN if the payee's account contains the incorrect TIN at the time of the notification. Paragraph (f)(3) of this section provides that if the filer is notified, pursuant to section 3406(a)(1)(B), the time and manner of making an annual solicitation is that required under § 31.3406(d)–5(g)(1)(ii) of this chapter. Section 31.3406(d)–5(g)(1)(ii) of this chapter requires R to notify E by mail within 15 business days after the date of the notice from the IRS, which R failed to do. As a result, R has failed to act in a responsible manner with respect to the failure on the 2024 information return, and the penalty will not be waived due to reasonable cause.

(8) *Example 8*—(i) *Facts.* On January 31, 2024, Institution Q timely furnishes Form 1099–MISC, *Miscellaneous Information,* to Individual F. Also on January 31, 2024, Q timely files a corresponding Form 1099–MISC with the IRS. On March 15, 2024, Q becomes aware of de minimis errors (within the meaning of § 301.6722–1(d)(2)) made on the Form 1099–MISC furnished to F and filed with the IRS. On March 20, 2024, F makes an election under § 301.6722–1(d)(3)(i) with respect to the Form 1099–MISC that Q furnished to F. Q furnishes a corrected Form 1099–MISC to F and files a corrected Form 1099–MISC with the IRS by April 19, 2024, which date is 30 days from March 20, 2024.

(ii) *Analysis.* The election by F and the presence of de minimis errors on the Forms 1099–MISC make the penalties under sections 6721 and 6722 applicable to Q. *See* §§ 301.6721–1(e)(3) and 301.6722–1(d)(3). Q, however, rectified the failures within 30 days of March 20, 2024, the date F made the election under § 301.6722–1(d)(3)(i) with respect to the Form 1099–MISC that Q furnished to F. Therefore, under paragraph (h) of this section, Q is considered to have established reasonable cause, and under section 6724 and paragraph (a)(1) of this section the penalties under sections 6721 and 6722 are waived.

(9) *Example 9*—(i) *Facts.* The facts are the same as in paragraph (k)(8)(i) of this section (*Example 8*), except that Q does not become aware of de minimis errors made on the Form 1099–MISC furnished to F and filed with the IRS until June 26, 2024. Additionally, Q furnishes the corrected Form 1099–MISC to F and files the corrected Form 1099–MISC with the IRS after June 26, 2024, but by July 26, 2024, which date is 30 days from June 26, 2024.

(ii) *Analysis.* As in the example in paragraph (k)(8) of this section, the election by F and the presence of de minimis errors on the Forms 1099–MISC make the penalties under sections 6721 and 6722 applicable to Q. Additionally, because Q did not furnish a corrected Form 1099–MISC to F and file a corrected Form 1099–MISC with the IRS within 30 days of the date of F's election under § 301.6722–1(d)(3)(i), paragraph (h) of this section does not apply. However, Q may be able to demonstrate reasonable cause under the provisions of paragraph (a) of this

section. As part of this demonstration, for example, Q may be able to demonstrate that Q acted in a responsible manner under paragraph (d)(1) of this section by rectifying the failure (that is, the de minimis errors) within 30 days of discovery.

* * * * *

(m) *Procedure for seeking a waiver.* In seeking an administrative determination that the failure was due to reasonable cause and not willful neglect, the filer must submit a written statement to the address provided with the notice proposing penalty assessment (for example, Notice 972CG) or the notice of penalty assessment (for example, CP15 or CP215), or as otherwise directed by the IRS in forms, instructions or publications. The statement must—

(1) State the specific provision under which the waiver is being requested, that is, paragraph (b) or under paragraphs (c)(2) through (6) or paragraph (h) of this section;

* * * * *

(o) *Applicability dates*—(1) *In general.* Except as provided in paragraphs (o)(2) and (3) of this section, this section applies with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2024. *See* 26 CFR 301.6724–1, as revised April 1, 2023, for rules applicable prior to January 1, 2024, except as provided in paragraphs (o)(2) and (3) of this section.

(2) *Paragraph (g).* Paragraph (g) of this section applies with respect to *information returns* as defined in section 6724(d)(1) required to be filed, *payee statements* as defined in section 6724(d)(2) required to be furnished, and specified information as described in section 6724(d)(3) required to be reported on or after January 1, 2024. *See* 26 CFR 301.6724–1(g), as revised April 1, 2023, for rules applicable prior to January 1, 2024.

(3) *Paragraph (h).* Paragraph (h) of this section applies with respect to information returns required to be filed and payee statements required to be furnished after January 4, 2017.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: November 29, 2023.

Lily L. Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2023–27283 Filed 12–18–23; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 525

Publication of Burma Sanctions Regulations Web General Licenses 3 and 4

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two general licenses (GLs) issued pursuant to the Burma Sanctions Regulations: GLs 3 and 4, each of which was previously made available on OFAC's website.

DATES: GLs 3 and 4 were issued on March 25, 2021. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On March 25, 2021, OFAC issued GLs 3 and 4 to authorize certain transactions otherwise prohibited by Executive Order (E.O.) 14014 of February 10, 2021, ''Blocking Property With Respect to the Situation in Burma'' (86 FR 9429, February 12, 2021). On June 1, 2021, OFAC incorporated the prohibitions of E.O. 14014 into the Burma Sanction Regulations, 31 CFR part 525. Each GL was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. GL 4 is now expired. The text of these GLs is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order 14014 of February 10, 2021—Blocking Property With Respect to the Situation in Burma

GENERAL LICENSE NO. 3

Certain Transactions in Support of Nongovernmental Organizations' Activities

(a) Except as provided in paragraph (c) of this general license, all transactions and activities prohibited by Executive Order (E.O.) 14014 that are ordinarily incident and necessary to the activities described in paragraph (b) by nongovernmental organizations are authorized, including the processing and transfer of funds; payment of taxes, fees, and import duties; and purchase or receipt of permits, licenses, or public utility services.

(b) The activities referenced in paragraph (a) of this general license are as follows:

(1) Activities to support humanitarian projects to meet basic human needs in Burma, including drought and flood relief; food, nutrition, and medicine distribution; the provision of health services; assistance for vulnerable or displaced populations, including individuals with disabilities and the elderly; and environmental programs;

(2) Activities to support democracy building in Burma, including activities to support rule of law, citizen participation, government accountability and transparency, human rights and fundamental freedoms, access to information, and civil society development projects;

(3) Activities to support education in Burma, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects;

(4) Activities to support non-commercial development projects directly benefiting the people of Burma, including preventing infectious disease and promoting maternal/child health, sustainable agriculture, and clean water assistance; and

(5) Activities to support environmental and natural resource protection in Burma, including the preservation and protection of threatened or endangered species, responsible and transparent management of natural resources, and the remediation of pollution or other environmental damage.

(c) This general license does not authorize any transactions or activities otherwise prohibited by E.O. 14014, or prohibited by any part of 31 CFR chapter V, statute, or other Executive order.

Bradley T. Smith,
Acting Director,
Office of Foreign Assets Control.

Dated: March 25, 2021

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order 14014 of February 10, 2021—Blocking Property With Respect to the Situation in Burma

GENERAL LICENSE NO. 4

Authorizing the Wind Down of Transactions Involving Myanmar Economic Corporation Limited and Myanma Economic Holdings Public Company Limited

(a) Except as provided in paragraph (b) of this general license, all transactions and activities prohibited by Executive Order (E.O.) 14014 that are ordinarily incident and necessary to the wind down of transactions involving Myanmar Economic Corporation Limited (MEC), Myanma Economic Holdings Public Company Limited (MEHL), or any entity in which MEC or MEHL owns, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest are authorized through 12:01 a.m. eastern daylight time, June 22, 2021.

(b) This general license does not authorize any transactions or activities otherwise prohibited by E.O. 14014, or prohibited by any part of 31 CFR chapter V, statute, or other Executive order, or involving any blocked persons other than the blocked persons identified in paragraph (a) of this general license.

Bradley T. Smith,
Acting Director,
Office of Foreign Assets Control.
Dated: March 25, 2021

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2023–27693 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 569

Publication of Syria-Related Sanctions Regulations Web General Licenses 1, 2, and 3

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of Web General Licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing three general licenses (GLs) issued pursuant to the Syria-Related Sanctions Regulations: GLs 1, 2, and 3, each of which were previously made available on OFAC's website.

DATES: GLs 1, 2, and 3 were issued on October 14, 2019. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On October 14, 2019, OFAC issued GLs 1, 2, and 3 to authorize certain transactions otherwise prohibited by Executive Order (E.O.) 13894 of October 14, 2019 ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria'' (84 FR 55851, October 17, 2019). In 2020, E.O. 13894 was incorporated into the Syria-Related Sanctions Regulations, 31 CFR part 569 (''Regulations''). GLs 2 and 3 were revoked on November 5, 2019. Each GL was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. In 2022, OFAC added GLs for the official business of the U.S. government and for official business of certain international organizations and entities at §§ 569.509 and 569 of the Regulations, respectively, which incorporate the authorizations previously in GLs 1 and 3. The text of these GLs is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order of October 14, 2019—Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria

GENERAL LICENSE 1

Official Business of the United States Government

(a) Except as provided in paragraph (b) of this general license, all transactions and activities prohibited pursuant to Sections 1, 2, and 3 of Executive Order of October 14, 2019 that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof are authorized.

(b) This general license does not authorize any transaction or activity that is prohibited by any other Executive Order or any part of 31 CFR chapter V.

Bradley T. Smith,
Deputy Director,
Office of Foreign Assets Control.
Dated: October 14, 2019

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order of October 14, 2019—Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria

GENERAL LICENSE 2

Authorizing Certain Activities Necessary to the Wind Down of Operations or Existing Contracts Involving the Ministry of National Defence or the Ministry of Energy and Natural Resources of the Government of Turkey

(a) Except as provided in paragraph (b) of this general license, all transactions and activities prohibited by Executive Order (E.O.) of October 14, 2019 that are ordinarily incident and necessary to the wind down of operations, contracts, or other agreements involving the Ministry of National Defence or the Ministry of Energy and Natural Resources of the Government of Turkey, or any entity in which one or more of such ministries own, directly or indirectly, a 50 percent or greater interest, that were in effect prior to 12:01 eastern daylight time October 14, 2019, are authorized through 12:01 a.m. eastern standard time November 13, 2019.

(b) This general license does not authorize:

(1) Any debit to an account of a person blocked pursuant to E.O. of October 14, 2019 on the books of a U.S. financial institution; or

(2) Any transactions or activities otherwise prohibited by any other E.O or any part of 31 CFR chapter V.

Bradley T. Smith,
Deputy Director,
Office of Foreign Assets Control.
Dated: October 14, 2019

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order of October 14, 2019—Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria

GENERAL LICENSE 3

Authorizing Official Activities of Certain International Organizations Involving the Ministry of National Defence or the Ministry of Energy and Natural Resources of the Government of Turkey

(a) Except as provided in paragraph (b) of this general license, all transactions and activities prohibited pursuant to Sections 1, 2, and 3 of Executive Order (E.O.) of October 14, 2019 involving the Ministry of National Defence or the Ministry of Energy and Natural Resources of the Government of Turkey, or any entity in which one or more of such ministries own, directly or indirectly, a 50 percent or greater interest, that are for the official business of the United Nations, including its Programmes and Funds, and its Specialized Agencies and Related Organizations, including those entities listed below, are authorized:

- World Bank
- IMF (International Monetary Fund)
- FAO (UN Food and Agriculture Organization)
- OCHA (UN Office for the Coordination of Humanitarian Affairs)
- OHCHR (UN Office of the United Nations High Commissioner for Human Rights)
- UN Habitat
- UNDP (UN Development Program)
- UNFP A (UN Population Fund)
- UNHCR (Office of the UN High Commissioner for Refugees)
- UNICEF (UN Children's Fund)
- WFP (World Food Program)
- The World Health Organization (WHO), including the Pan-American Health Organization (PAHO)

Note to paragraph (a): For an organizational chart of the United Nations and its specialized agencies and related organizations, see the following page on the United Nations website: *http://www.unsceb.orn/directory*.

(b) This general license does not authorize:

(1) The unblocking of any property blocked pursuant to E.O. of October 14, 2019 or any part of 31 CFR chapter V, except as authorized by paragraph (a); or

(2) Any transaction or dealing otherwise prohibited by E.O. of October 14, 2019, any other E.O., or any part of 31 CFR chapter V.

Bradley T. Smith,
Deputy Director,
Office of Foreign Assets Control.

Dated: October 14, 2019

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2023–27692 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG–2023–0073]

RIN 1625–AA00

Safety Zone; South Fork Wind Farm Project Area, Outer Continental Shelf, Lease OCS–A 0517, Offshore Rhode Island, Atlantic Ocean

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is extending the effective period for the 13 temporary 500-meter temporary safety zones around the construction of 12 wind turbine generators (WTGs) and one offshore substation (OSS) located in the South Fork Wind Farm (SFWF) project area within Federal waters on the Outer Continental Shelf (OCS), specifically, in the Bureau of Ocean Energy Management (BOEM) Renewable Energy Lease Area OCS–A 0517, approximately 16 nautical miles (NM) southeast of Block Island, Rhode Island, and 30 NM east of Montauk Point, New York. This rule extends the effective period of the existing safety zones for an additional five months. The safety zones will now end on May 31, 2024. This action is necessary to provide for the safety of life, property, and the environment during the anticipated construction of each facility's monopile type foundation and subsequent installation of the WTGs turbines and OSS platform. When enforced, only attending vessels and those vessels specifically authorized by the First Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zones.

DATES: This temporary interim rule is effective from January 1, 2024, through May 31, 2024. Comments and related material must be received by the Coast Guard on or before March 18, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0073 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0073 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 about this rulemaking, call or email Mr. Craig Lapiejko, Waterways Management, at Coast Guard First District, telephone 617–603–8592, email *craig.d.lapiejko@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BOEM Bureau of Ocean Energy Management
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
OSS Offshore substation
NM Nautical mile
§ Section
SFWF South Fork Wind Farm
U.S.C. United States Code
WTG Wind turbine generator

II. Background, Purpose, and Legal Basis

On May 2, 2023, the Coast Guard published a temporary final rule (TFR) establishing 13 temporary 500-meter safety zones around the construction of 12 wind turbine generators (WTGs) and one offshore substation (OSS) located in the South Fork Wind Farm (SFWF) project area within Federal waters on the Outer Continental Shelf (OCS), specifically, in the Bureau of Ocean Energy Management (BOEM) Renewable Energy Lease Area OCS–A 0517, approximately 16 nautical miles (NM) southeast of Block Island, Rhode Island, and 30 NM east of Montauk Point, New York (88 FR 27402).

The Coast Guard originally published a temporary rule to be effective, and enforceable, through December 31, 2023. We are now extending it to May 31, 2024, to provide more time for the completion of the installation of the wind turbine generator (WTG) structures. This rule extends the effective period of the safety zones for five months until May 31, 2024.

The First Coast Guard District Commander has determined that extension of the 13 safety zones through rulemaking is warranted to ensure the safety of life, property, and the environment within a 500-meter radius of each of the 13 facilities during their construction.

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 extending the effective period for the safety zone because doing so would be impracticable and contrary to the public interest. The Coast Guard did not receive sufficient notice that the windfarm construction would not be completed until May 31, 2024, to allow time to publish an NPRM, reviewing public comment, and publishing a subsequent rule. Providing this prior public notice and opportunity to comment is contrary to the public's interest and impracticable because doing so could result in a lapse in the safety zone's enforceability, and safety concerns with vessels and persons transiting too close to the construction efforts. Immediate action is needed to protect persons and property from the potential dangers associated with the construction.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary interim rule effective less than 30 days after publication in the **Federal Register**. The current temporary final rule around the windfarm construction ends on December 31, 2023, but the construction will be ongoing after that date. Delaying the effective date of this temporary interim rule would be contrary to the public's interest and impracticable because action is needed starting January 1, 2024, to protect persons and vessels from the potential safety hazards associated with the ongoing windfarm construction.

We are soliciting comments on the extension of the enforcement period of this safety zone. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security

(DHS) Delegation No. 00170.1, Revision No. 01.3. As an implementing regulation of this authority, 33 CFR part 147 permits the establishment of safety zones for non-mineral energy resource permanent or temporary structures located on the OCS for the purpose of protecting life and property on the facilities, appurtenances and attending vessels, and on the adjacent waters within the safety zone (see 33 CFR 147.10). Accordingly, a safety zone established under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property, and the environment.

IV. Discussion of Changes and the Rule

This rule extends the effective period of the 13 temporary 500-meter safety zones around the construction of 12 WTGs and one OSS on the OCS for five additional months until May 31, 2024. When enforced, this rule will continue to prohibit unauthorized vessel or person to enter the safety zone without obtaining permission from the First Coast Guard District Commander or a designated representative. All other requirements in the temporary safety zone issued on May 2, 2023 (88 FR 27402), remain the same.

If the project is completed before May 31, 2024, enforcement of the safety zones will be suspended, and notice given via Local Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes and Executive orders follows.

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, the rule has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zones established will extend to a maximum distance of 500-meters around the OCS facility measured from its center point. Vessel traffic will be able to safely transit around the safety zones, which will impact a small, designated area in the Atlantic Ocean, without significant impediment to their overall voyage. These safety zones are necessary to provide for the safety of life, property, and the environment during the construction of each structure, in accordance with Coast Guard maritime safety missions and the First Coast Guard District Commander's finding.

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 received zero comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect owners or operators of vessels intending to transit or anchor in the SFWF, some of which might be small entities. However, these safety zones will not have a significant economic impact on a substantial number of these entities because they are temporarily enforced, allow for deviation requests, and do not impact vessel transit significantly. Regarding the enforcement period, although these safety zones will continue to be in effect through May 31, 2024, vessels would only be prohibited from the regulated zone during periods of actual construction activity in correspondence to the period of enforcement. We expect the enforcement period at each location to last approximately 48 hours as construction progresses from one structure location to the next. Additionally, vessel traffic could pass safely around each safety zone using an alternate route. Use of an alternate route likely will cause minimal delay for the vessel in reaching their destination depending on other traffic in the area and vessel speed. Vessels will also be able to request deviation from this rule to transit through a safety zone. Such requests will be considered on a case by-case basis and may be authorized by the First Coast Guard District Commander or a designated representative. For these reasons, the Coast Guard expects any impact of this rulemaking establishing a temporary safety zone around these OCS facilities to be minimal and have no significant economic impact on small entities.

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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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 potential 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 the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. 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.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. If we determine that changes to the temporary interim rule are necessary, the Coast Guard will publish a temporary final rule or other appropriate document. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2023–0073 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this temporary interim rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the temporary interim rule, you should see a ''Subscribe'' option for email alerts. The option will notify you when comments are posted, or a subsequent document is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (waters).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 147.T01–0073 to read as follows:

§ 147.T01–0073 Safety Zones; South Fork Wind Farm Project Area, Outer Continental Shelf, Lease OCS–A 0517, Offshore Rhode Island, Atlantic Ocean.

(a) *Description.* The area within 500-meters of the center point of the positions (North American Datum of 1983 (NAD83)) provided in the following table is a safety zone:

TABLE 1 TO PARAGRAPH (a)

Name	Facility type	Latitude	Longitude
AM05	WTG	N 41.10879493	W – 71.19110374
AM06	WTG	N 41.10921219	W – 71.16906236
AM07	WTG	N 41.10962524	W – 71.14702052
AM08	WTG	N 41.11003408	W – 71.12497822
AN05	WTG	N 41.09212418	W – 71.19054951
AN06	WTG	N 41.09195639	W – 71.16788437
AN08	WTG	N 41.09336261	W – 71.12444068
AN09	WTG	N 41.093767	W – 71.1024035
AP05	WTG	N 41.07545338	W – 71.18999573
AP06	OSS	N 41.07587016	W – 71.16796548
AP07	WTG	N 41.07628273	W – 71.14593476
AP08	WTG	N 41.07669109	W – 71.12390359
AP09	WTG	N 41.07709524	W – 71.10187197

(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 First Coast Guard District Commander in the enforcement of the safety zones.

(c) *Regulations.* No vessel may enter or remain in the safety zone in paragraph (a) of this section except for the following:

(1) An attending vessel as defined in § 147.20; and

(2) A vessel authorized by the First Coast Guard District Commander or a designated representative.

(d) *Request for permission.* Persons or vessels seeking to enter the safety zone must request authorization from the First Coast Guard District Commander or a designated representative. If permission is granted, all persons and vessels must comply with lawful instructions of the First Coast Guard District Commander or designated representative via VHF–FM channel 16 or by phone at 866–842–1560 (First Coast Guard District Command Center).

(e) *Effective and enforcement periods.* This section is effective from January 1, 2024, through 11:59 p.m. on May 31, 2024. But it will only be enforced during active construction or other instances which may cause a hazard to navigation deemed necessary by the First Coast Guard District Commander. The First Coast Guard District Commander will make notification of the exact dates and times in advance of each enforcement period for the locations in paragraph (a) of this section to the local maritime community through the Local Notice to Mariners and will issue a Broadcast Notice to Mariners via marine channel 16 (VHF–FM) as soon as practicable in response to an emergency. If the project is completed before May 31, 2024, enforcement of the safety zones will be suspended, and notice given via Local Notice to Mariners. The First Coast Guard District Local Notice to Mariners can be found at: *https://www.navcen.uscg.gov.*

Dated: December 13, 2023.

J.W. Mauger,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2023–27774 Filed 12–18–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0953]

Safety Zones; New Year's Fireworks Display, Hood Canal, Washington

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will a enforce safety zone surrounding the Alderbrook Resort dock involved in a fireworks display in Hood Canal, WA, from December 31, 2023, through January 1, 2024 to provide for the safety of life on navigable waterways during the event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event in Hood Canal, WA. During the enforcement period, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 165.1332 will be enforced for the Alderbrook Resort and Spa Fireworks regulated area identified in the fourth row of the table in § 165.1332, from 11 p.m. on December 31, 2023, through 1 a.m. on January 1, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST1 Steve Barnett, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce safety zone regulations in 33 CFR 165.1332 for the annual Alderbrook Resort and Spa Fireworks display in Hood Canal from 11 p.m. on December 31, 2023, through 1 a.m. on January 1, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District, § 165.1332, specifics the location of the regulated area for the Alderbrook Resort and Spa Fireworks display which encompasses portions of Hood Canal. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners.

Dated: December 12, 2023.

M.A. McDonnell,

Captain, U.S. Coast Guard, Captain of the Port Sector Puget Sound.

[FR Doc. 2023–27771 Filed 12–18–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0962]

Safety Zone; Lower Mississippi River, Mile Markers 94 to 97 Above Head of Passes, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone on December 30, 2023, for the University of Texas Sugar Bowl Barge Show fireworks display located on the navigable waters of the Lower Mississippi River between Mile Marker (MM) 95.5 and MM 96.5. Our regulation for Safety Zone; Lower Mississippi River, Mile Markers 94 to 97 above Head of Passes, New Orleans, LA, identifies the regulated area for this event. This action is necessary to provide for the safety of life on these navigable waterways during this event. During the enforcement period, entry into this safety zone is prohibited unless authorized by the Captain of the Port or a designated representative.

DATES: The regulations in 33 CFR 165.845 will be enforced from 9:45 p.m. through 10:30 p.m. on December 30, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander William Stewart, Sector New Orleans, U.S. Coast Guard; telephone (504) 365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone for the University of Texas Sugar Bowl Barge Show fireworks display from 9:45 p.m. through 10:30 p.m. on December 30, 2023, to provide for the safety of life on the navigable waterways during this event. Our regulation for Safety Zone; Lower Mississippi River, mile markers 94 to 97 above Head of Passes, New

Orleans, LA, in 33 CFR 165.845(a), specifies the location of the regulated area on the Lower Mississippi River, between MM 95.5 and MM 96.5. During the enforcement period, as reflected in 33 CFR 165.845(c), entry into this safety zone is prohibited unless authorized by the Captain of the Port or a designated representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via Marine Safety Information Bulletin and Broadcast Notice to Mariners.

Dated: December 13, 2023.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2023–27842 Filed 12–18–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2023–0375; EPA–HQ–OAR–2021–0663; FRL–11233–02–R8]

Air Plan Approval; Wyoming; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of the portion of a Wyoming State Implementation Plan (SIP) submission addressing interstate transport for the 2015 8-hour ozone national ambient air quality standards (NAAQS). The ''good neighbor'' or ''interstate transport'' provision requires that each state's SIP contain adequate provisions to prohibit emissions from within the state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in other states. This requirement is part of the broader set of ''infrastructure'' requirements, which are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the Clean Air Act (CAA).

DATES: This rule is effective on January 18, 2024.

ADDRESSES: There are two dockets supporting this action, EPA–R08–OAR–2023–0375 and EPA–HQ–OAR–2021–0663. Docket No. EPA–R08–OAR–2023–0375 contains information specific to Wyoming, including the August 14, 2023 notice of proposed rulemaking that supports this final action. Docket No. EPA–HQ–OAR–2021–0663 contains additional modeling files, emissions inventory files, technical support documents, and other relevant supporting documentation regarding interstate transport of emissions for the 2015 8-hour ozone NAAQS which are being used to support this action. All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the docket, some information may not be publicly available, *e.g.,* confidential business information (CBI) or other information whose 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 electronically in *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Uher, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–04, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541–5534; email address: *uher.thomas@epa.gov.*

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

I. Background

On August 14, 2023 (88 FR 54998), the EPA proposed to approve the interstate transport prongs 1 and 2 portions of Wyoming's January 3, 2019 submission. An explanation of the CAA requirements and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for the proposed approval ended on September 13, 2023. The EPA received eight comment submissions on the proposed action, one of which was submitted in error as it pertains to a rulemaking by a different agency. Of the seven remaining submissions, six of the commenters were in support of our proposed action, and one commenter (Sierra Club) was opposed. A summary of the relevant comments and the EPA's responses are provided below.

II. Response to Comments

Comment: Commenter PacifiCorp argued that the EPA lacks the authority to withdraw and re-propose action on Wyoming's SIP, stating that ''EPA does not have or need the authority to undertake the current re-proposal to solicit additional record evidence when the existing record is adequate and appropriate to approve Wyoming's SIP.'' The commenter asserts that, because the information available to the EPA (specifically the 2016v3 modeling) was also available to us when we did not take final action on Wyoming's SIP (citing 88 FR 9336; Feb. 13, 2023), the EPA ''cannot artificially extend its action by deferral and then re-propose to obtain more information.'' The commenter states that the EPA did not provide a reason why a new rulemaking for Wyoming was necessary when we were able to take final action on Minnesota and Wisconsin's SIPs although our modeling-based determination had changed between proposal and final. The commenter also states that ''EPA's re-proposal unlawfully attempts to manipulate and unilaterally extend EPA's statutorily-fixed deadlines for SIP actions'' because the CAA deadline for final action on Wyoming's SIP had passed when the commenter alleges we chose to not take final action on Wyoming's SIP. Other commenters also noted that the EPA had exceeded our statutory deadline for final action on Wyoming's SIP, and commenter Basin Electric urged the EPA to finalize our proposed approval as expeditiously as practicable because our delays had caused them regulatory uncertainty.

Response: These comments are not germane to the basis for the EPA's action. Commenters repeat arguments that have been raised in a challenge to the EPA's separate final action disapproving 21 other states' interstate transport SIP submissions for the 2015 ozone NAAQS (88 FR 9336; Feb. 13, 2023).[1] There is nothing unlawful or improper in providing an additional opportunity for public comment when the EPA finds, on the basis of updated modeling information, that a SIP submission on which it had proposed disapproval, may be approved. This is consistent with the EPA's approach in numerous prior interstate transport SIP rulemakings.[2] The EPA has responded to commenters' legal arguments against the separate disapproval action in the *Wyoming* v. *EPA* litigation.[3]

Regarding comments that the EPA has exceeded our statutory deadlines, the EPA is subject to a consent decree in *Downwinders at Risk* v. *EPA,* No. 21–cv–03551 (N.D. Cal.) under which the

[1] *See Wyoming et. al.* v *U.S. EPA,* No. 23–9529, Doc. 0101108374342 (10th Cir. June 15, 2023).

[2] *See, e.g.,* 84 FR 71854 (Dec. 30, 2019) and 87 FR 9545 (Feb. 22, 2022); 85 FR 12232 (Mar. 2, 2020) and 87 FR 9477 (Feb. 22, 2022).

[3] *Wyoming et. al.* v *U.S. EPA,* No. 23–9529, Doc. 010110896632 (10th Cir. July 31, 2023).

EPA has a deadline to take this final action of December 15, 2023. The EPA is meeting that deadline.

Comment: Commenter Wyoming Department of Environmental Quality (WDEQ) requested that the EPA further expand the details of our analysis specific to Wyoming's plan, to be consistent with EPA action on other states' SIPs.

Response: The EPA does not consider it necessary to provide further detail on our analysis of Wyoming's SIP. A proposed analysis of Wyoming's submission was provided in our May 24, 2022 proposed disapproval.[4] Because under the EPA's 2016v3 modeling Wyoming is not projected to be linked to any out of state receptors in the 2023 analytic year above the 1 percent of NAAQS contribution threshold, additional analysis is not necessary.

Comment: Commenter Basin Electric cited language from the EPA's August 14, 2023 proposed approval which stated that the EPA did ''not assess the data and analysis in Wyoming's submission, as EPA's updated modeling corroborates Wyoming's conclusion that the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.'' The commenter asserted that this served as an acknowledgement that the EPA ignored the contents of Wyoming's SIP. The commenter stated that in doing so, the EPA ''is ultimately attempting to transform what is appropriately a state-specific assessment under the Good Neighbor Provision into a uniform rule that requires each state to conform to EPA's vision of how it believes states should address and analyze interstate ozone transport,'' which the commenter argues ''exceeds the authority delegated to EPA by Congress in the CAA.''

Several commenters stated that CAA section 110(a)(2)(D)(i)(I) and EPA guidance provided the states broad discretion in developing their interstate transport SIPs. Commenters Idaho Power Company (IPC) and Mountain Cement Company (MCC) both asserted that the EPA has a more limited, secondary role in reviewing SIP submittals for consistency with the CAA, which explicitly states that the EPA ''shall approve'' a state's plan so long as it is consistent with the statute. Commenters argued that, in performing this limited oversight role, the EPA cannot substitute its own judgment for that of the states, and in particular, cannot ''force particular control measures on the states.''

Response: As set forth in our prior proposal to disapprove Wyoming's submission, the EPA did not ignore its contents. However, the EPA need not address these issues in order to conclude that Wyoming's SIP submission is approvable in light of the 2016v3 modeling. This is consistent with numerous other approval actions the EPA has taken for interstate transport obligations for the 2015 ozone NAAQS, where the available modeling indicated that a state was not linked above a 1 percent of the NAAQS threshold to any out of state receptor. See 88 FR 9362 (citing approval actions). As for the remainder of the comments, the EPA notes that they appear to be substantially at odds with the statute and applicable case law. For the EPA's response to similar comments on the separate Disapproval action (which we are not reopening here), see 88 FR 9367–68.

Comment: Several commenters stated that Wyoming's SIP had been approvable before the release of the 2016v3 modeling, and that the updated modeling only served to confirm the SIP's approvability. Commenters MCC and IPC restated portions of the weight of evidence analysis WDEQ included in their SIP submission, and asserted that this analysis demonstrated that Wyoming met the 110(a)(2)(D)(i)(I) requirements for the 2015 ozone NAAQS and was in line with EPA guidance.

Response: The EPA takes no final position on whether Wyoming's SIP submission would have been approved in a counter-factual scenario in which the 2016v3 modeling was not available. The EPA's prior views on Wyoming's submission are stated in our now withdrawn May 24, 2022 proposal, and given the 2016v3 modeling, there is no need to finalize that analysis.[5]

Comment: Commenter Sierra Club requested that the EPA withdraw our proposed approval of Wyoming's SIP and instead finalize the prior (and now withdrawn) proposed disapproval of the same plan. The commenter asserted that the EPA should have identified Weld County (Site ID 81230009) as a violating monitor due to its 2022 design value of 72 ppb, and because the 2016v3 modeling indicates a Wyoming contribution of 0.72 ppb at this receptor in 2023, the EPA should consider this as significant contribution to nonattainment or interference with maintenance of the 2015 ozone NAAQS.

Response: The EPA disagrees that we should have identified the Weld County monitor as a violating-monitor maintenance-only receptor. The EPA considers monitoring sites with measured design values *and* 4th high maximum daily 8-hour average (MDA8) ozone that exceed the 2015 ozone NAAQS (*i.e.,* greater than or equal to 71 ppb) based on certified 2021 *and* 2022 data to have the greatest risk of continuing to have a problem attaining the standard in 2023, even when the modeling projects these sites will attain. The Weld County site to which the commenter refers has a certified 2022 4th high MDA8 of 70, which does not exceed the 2015 ozone NAAQS.[6] Therefore, the EPA continues to find that this monitor does not meet the criteria of a violating-monitor maintenance-only receptor.

Comment: One commenter urged the EPA to adopt and enforce the strongest possible rule to reduce air pollution in Wyoming that may threaten public health in Wyoming and other neighboring states.

Response: This comment lacks sufficient specificity for the EPA to respond.

Comment: Commenters WDEQ and PacifiCorp both asserted that the EPA's action on Wyoming's interstate transport SIP was a locally or regionally applicable action, rather than a nationally applicable action. Both commenters argued that under section 307(b)(1), the appropriate venue depends on whether the EPA's action is ''nationally applicable'' or ''locally or regionally applicable,'' stating that the EPA Region 8's proposed action on Wyoming's SIP is a ''purely local action'' and an ''indisputably regional action.''

Response: The EPA agrees that this is a locally or regionally applicable action. However, under CAA section 307(b)(1), any locally or regionally applicable action that is based on one or more determinations of nationwide scope or effect made and published by the EPA may be challenged only in the D.C. Circuit. For the reasons provided in section IV. of this preamble, the Administrator finds that this action is based on multiple determinations of nationwide scope or effect within the meaning of CAA section 307(b)(1) and is hereby publishing that finding. While this final rule applies only to Wyoming, the EPA evaluated Wyoming's SIP based on a common core of nationwide policy judgments and technical analysis concerning the interstate transport of ozone, including the same determinations made in evaluating every other state's obligations under the

[4] 87 FR 31495.

[5] 87 FR 31495.

[6] See ''Official 2021_2022 DVs_4th Highs.xlsx'' in the docket for this action.

Good Neighbor Provision for the 2015 Ozone Standard.[7] Ozone transport presents a ''collective contribution'' challenge in which many smaller contributors across a broad region combine to generate a downwind air quality problem.[8] Given the ''interdependent nature of interstate pollution transport,'' the EPA finds it critically important to employ ''a consistent set of policy judgments across all states for purposes of evaluating interstate transport obligations,'' [9] including Wyoming.

Section IV. identifies the specific determinations of nationwide scope or effect that underlie this action.

III. Final Action

Based on the EPA's evaluation of the impact of air emissions from Wyoming to downwind states using 2023 analytic year modeling as described in our August 14, 2023 proposed rulemaking, the EPA is approving Wyoming's January 3, 2019 SIP submission as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (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. 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.'' Wyoming did not evaluate environmental justice considerations as part of its SIP submission; the CAA 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. 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the D.C. Circuit: (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion to decide whether to invoke the exception in (ii).[10]

The Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this final action (to the extent a court finds the action to be locally or regionally applicable) is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1). Through this rulemaking action (in conjunction with a series of related actions on other SIP submissions for the same CAA obligations), the EPA interprets and applies section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS based on a common core of nationwide policy judgments and technical analysis concerning the interstate transport of pollutants throughout the continental

[7] 88 FR 9380.

[8] Id. at 9342.

[9] Id. at 9339, 9365.

[10] In deciding whether to invoke the exception by making and publishing a finding that an action is based on a determination of nationwide scope or effect, the Administrator takes into account a number of policy considerations, including his judgment balancing the benefit of obtaining the D.C. Circuit's authoritative centralized review versus allowing development of the issue in other contexts and the best use of agency resources.

U.S. The EPA relies on a single set of updated, 2016-base year photochemical grid modeling results for the year 2023 as the primary basis for its assessment of air quality conditions and contributions at steps 1 and 2 of the EPA's 4-step framework for assessing good neighbor obligations. The EPA has selected nationally uniform analytic years for its analysis under the 4-step framework and is applying a nationally uniform approach to nonattainment and maintenance receptors and a nationally uniform approach to contribution threshold analysis.[11]

Specifically, the Administrator finds that this action on the State of Wyoming's SIP submission is based on several determinations of nationwide scope or effect, including his determination: (1) that use of the same 2023 analytical year air quality modeling (2016v3) and monitoring data that were used to define all other states' good neighbor obligations for the 2015 ozone NAAQS is appropriate for evaluating Wyoming's contribution in this action; (2) that it is appropriate to use the EPA's nationwide methodology for identifying nonattainment and maintenance receptors, including ''violating monitor'' maintenance-only receptors, using the 2016v3 modeling and recent monitoring data; (3) that it is appropriate to use the EPA's nationwide methodology for calculating states' contribution levels to out of state receptors in calculating Wyoming's impact; and (4) that a conclusion that a state's impact on all out of state receptors is less than 1 percent of the NAAQS (using the data and methodologies described in items (1) through (3)) is sufficient to approve the state's good neighbor SIP submission for the 2015 ozone NAAQS, without further analysis.

These determinations lie at the core of this final action and ensure consistency and equity in the treatment of all states in addressing the multistate problem of interstate ozone pollution under the good neighbor provision for the 2015 ozone NAAQS. These determinations are not related to the particularities of the emissions sources in Wyoming or any specific state.

For these reasons, the Administrator is exercising the complete discretion afforded to him under the CAA and hereby makes and publishes a finding that this action is based on multiple determinations of nationwide scope or effect for purposes of CAA section 307(b)(1). Therefore, any petitions for review of this action must be filed in the D.C. Circuit Court of Appeals.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

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

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 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 ZZ—Wyoming

■ 2. In § 52.2620, the table in paragraph (e) is amended by adding the entry ''(35) XXXV'' in numerical order to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(e) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/ date	Comments
(35) XXXV	Interstate transport SIP for section 110(a)(2)(D)(i)(I) prongs 1 and 2 for the 2015 Ozone NAAQS.	1/3/2019	1/18/2024	[insert **Federal Register** citation], 12/19/2024.	

[FR Doc. 2023–27754 Filed 12–18–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

Designation, Reportable Quantities, and Notification

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 40 of the Code of Federal Regulations, Parts 300 to 399, revised as of July 1, 2023, Appendix B to § 302.4 as published in the July 1, 2021, revision of title 40, parts 300 to 399, is reinstated.

[FR Doc. 2023–27993 Filed 12–18–23; 8:45 am]

BILLING CODE 0099–10–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket Nos. 22–411; 22–271; FCC 23–73; FR ID 190672]

Expediting Initial Processing of Satellite and Earth Station Applications; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the preamble to a final rule published in the **Federal Register** of December 6, 2023, regarding Expediting the Initial Processing of Satellite and Earth Station Applications. This correction removes a sentence that erroneously stated that a proposed rule relating to further expediting satellite and earth station application processing was published elsewhere in the same issue of the **Federal Register**. The proposed rule published in the **Federal Register** of December 8, 2023.

DATES: The correction is effective January 5, 2024.

FOR FURTHER INFORMATION CONTACT: Julia Malette, Attorney Advisor, Satellite Programs and Policy Division, Space

[11] In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. *See* H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

Bureau, at 202–418–2453 or *julia.malette@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In final rule FR Doc. 2023–26699, in the issue of December 6, 2023, on page 84737 in the 3rd column, remove the sentence: ''A proposed rule relating to further expediting satellite and earth station application processing is published elsewhere in this issue of the **Federal Register**.''

Dated: December 12, 2023.

Federal Communications Commission

Marlene Dortch,

Secretary.

[FR Doc. 2023–27812 Filed 12–18–23; 8:45 am]

BILLING CODE P

Proposed Rules

Federal Register
Vol. 88, No. 242
Tuesday, December 19, 2023

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 275

[FNS–2020–0016]

RIN 0584–AE79

Provisions To Improve the Supplemental Nutrition Assistance Program's Quality Control System

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The U.S. Department of Agriculture proposed to make changes to the Supplemental Nutrition Assistance Program's Quality Control (SNAP QC) system to strengthen and improve the integrity and accuracy of the system and to better align SNAP QC with requirements in the Payment Integrity Information Act of 2019 (PIIA). When published, the proposed rule included an incorrect email address for comments; the reopening of the comment period is intended to allow additional time for the public to submit comments in the event the original comment submission was returned as undeliverable due to the incorrect email address.

DATES: The comment period for the proposed rule published September 19, 2023, at 88 FR 64756, is reopened. Written comments must be received on or before January 2, 2024 to ensure their consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

—*Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

—*Mail:* Send comments to John McCleskey, Branch Chief, Quality Control Branch, Program Accountability and Administration Division; Food and Nutrition Service, 1320 Braddock Place, 5th Floor, Alexandria, Virginia 22314.

—*E-Mail:* Send comments to *SM.FN.SNAPQCReform@usda.gov.* Include Docket ID Number FNS–2020–0016, ''Provisions to Improve the SNAP QC System'' in the subject line of the message.

—All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the internet via *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John McCleskey, 703–457–7747, Food and Nutrition Service, 1320 Braddock Place, 5th Floor, Alexandria, Virginia 22314, *SM.FN.SNAPQCReform@usda.gov.*

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking, published on September 19, 2023 (88 FR 64756), the email address provided in the addresses section of the rule was incorrect, resulting in comments submitted via email being returned as undeliverable. While the other avenues for comment submission were unaffected, USDA is correcting the email address and allowing the public additional time to submit comments. Commenters who do not see their comment reflected on *www.regulations.gov* from the original comment period are encouraged to resubmit their comments. All regulatory provisions in the September 19, 2023, proposed rule remain unchanged. This document notifies the public the Department is reopening the comment period until January 2, 2024.

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2023–27821 Filed 12–18–23; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2242; Project Identifier MCAI–2023–00704–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by a determination that new or more restrictive maintenance tasks are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance tasks. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 2, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2242; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For service information identified in this NPRM, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*

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

FOR FURTHER INFORMATION CONTACT: Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–2242; Project Identifier MCAI–2023–00704–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2023–34, dated May 25, 2023 (Transport Canada AD CF–2023–34) (also referred to after this as the MCAI), to correct an unsafe condition for all Bombardier, Inc., Model BD–100–1A10 airplanes. The MCAI states that new or more restrictive maintenance tasks have been developed.

Airplanes with certain serial numbers were delivered after the maintenance or inspection program was revised and must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

The FAA is proposing this AD to address failure or degradation of the horizontal stabilizer trim actuator (HSTA) and motor brake assembly. A failed or degraded HSTA or motor brake assembly could result in loss of control of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2242.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following Bombardier service information, which describes new or more restrictive airworthiness limitation maintenance tasks that specify inspection and overhaul of the HSTA and add flight-cycle and flight-hour limitations.

• Sections 5–10–20, ''Time Limits—Supplementary Limitations,'' and 5–10–40, ''Certification Maintenance Requirements,'' of part 2, ''Airworthiness Limitations,'' of the Bombardier Challenger 350 Time Limits/Maintenance Check, CH 350, Revision 13, dated June 14, 2022, which include Task 27–40–00–104*, ''Restoration (Overhaul) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100–004 and subs,'' and Task 27–41–05–104*, ''Restoration (Overhaul) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100–004/–005.''

• Sections 5–10–20, ''Time Limits—Supplementary Limitations,'' and 5–10–40, ''Certification Maintenance Requirements,'' of part 2, ''Airworthiness Limitations,'' of the Bombardier Challenger 300 Time Limits/Maintenance Check, CH 300, Revision 23, dated June 14, 2022, which include Task 27–40–00–104*, ''Restoration (Overhaul) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100–004 and subs,'' and Task 27–41–05–104*, ''Restoration (Overhaul) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100–004/–005.''

• Temporary Revision 5–2–31, dated January 31, 2023, which includes Task 27–40–00–108**, ''Restoration (Inspection) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100–003 and subs.''

• Temporary Revision 5–2–102, dated January 31, 2023, which includes Task 27–40–00–108**, ''Restoration (Inspection) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100–003 and subs.''

These documents are distinct since they apply to different airplane models.

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

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance tasks.

This proposed AD would require revisions to certain operator maintenance documents to add new actions (*i.e.,* inspections) and certain overhaul time limitations. Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired

in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 737 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2023–2242; Project Identifier MCAI–2023–00704–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 1, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, having serial numbers 20003 through 20500 inclusive, and 20501 through 20959 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks; 27, Stabilizer.

(e) Reason

This AD was prompted by a determination that new or more restrictive maintenance tasks are necessary. The FAA is issuing this AD to address failure or degradation of the horizontal stabilizer trim actuator (HSTA) and motor brake assembly. The unsafe condition, if not addressed, could result in loss of control of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in figure 1 or 2 to paragraph (g) of this AD, as applicable. The initial compliance time for doing the tasks is at the time specified in the applicable temporary revision (TR) or time limit/maintenance check (TLMC) document specified in figures 1 and 2 to paragraph (g) of this AD, or within 60 days after the effective date of this AD, whichever occurs later.

Note 1 to paragraph (g): The asterisk (or ''one star'') or double asterisk (''two star'') with the last three digits of the task numbers listed in figures 1 and 2 to paragraph (g) of this AD indicates that the task is an airworthiness limitation task.

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Figure 1 to paragraph (g) - Tasks for Model BD-100-1A10 airplanes having S/Ns 20003 through 20500

Task number	Task title	TLMC chapter	TLMC or TR document
27-40-00-108**	Restoration (Inspection) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100-003 and subs	5-10-40	Bombardier Temporary Revision 5-2-102, dated January 31, 2023
27-40-00-104*	Restoration (Overhaul) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100-004 and subs	5-10-40	Part 2, "Airworthiness Limitations," of the Bombardier Challenger 300 Time Limits/Maintenance Check, CH 300, Revision 23, dated June 14, 2022
27-41-05-104*	Restoration (Overhaul) of the Horizontal Stabilizer Trim actuator (HSTA), Part No. C47100-004/-005	5-10-20	Part 2, "Airworthiness Limitations," of the Bombardier Challenger 300 Time Limits/Maintenance Check, CH 300, Revision 23, dated June 14, 2022

Figure 2 to paragraph (g) - Tasks for Model BD-100-1A10 airplanes having S/Ns 20501 through 20959

Task number	Task title	TLMC chapter	TLMC or TR document
27-40-00-108**	Restoration (Inspection) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100-003 and subs	5-10-40	Bombardier Temporary Revision 5-2-31, dated January 31, 2023
27-40-00-104*	Restoration (Overhaul) of the Horizontal-Stabilizer Trim-Actuator (HSTA), Part No. C47100-004 and subs	5-10-40	Part 2, "Airworthiness Limitations," of the Bombardier Challenger 350 Time Limits/Maintenance Check, CH 350, Revision 13, dated June 14, 2022
27-41-05-104*	Restoration (Overhaul) of the Horizontal Stabilizer Trim actuator (HSTA), Part No. C47100-004/-005	5-10-20	Part 2, "Airworthiness Limitations," of the Bombardier Challenger 350 Time Limits/Maintenance Check, CH 350, Revision 13, dated June 14, 2022

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(h) No Alternative Actions, or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (j)(2) of this AD or email to: *9-avs-nyaco-cos@faa.gov.* If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Additional Information

(1) Refer to Transport Canada AD CF–2023–34, dated May 25, 2023, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–2242.

(2) For more information about this AD, contact Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Section 5–10–20, ''Time Limits—Supplementary Limitations,'' of Part 2, ''Airworthiness Limitations,'' of the Bombardier Challenger 300 Time Limits/Maintenance Check, CH 300, Revision 23, dated June 14, 2022.

(ii) Section 5–10–20, ''Time Limits—Supplementary Limitations,'' of Part 2, ''Airworthiness Limitations,'' of the Bombardier Time Limits/Maintenance Check, CH 350, Revision 13, dated June 14, 2022.

(iii) Section 5–10–40, ''Certification Maintenance Requirements,'' of Part 2, ''Airworthiness Limitations,'' of the Bombardier Challenger 300 Time Limits/Maintenance Check, CH 300, Revision 23, dated June 14, 2022.

(iv) Section 5–10–40, ''Certification Maintenance Requirements,'' of Part 2, ''Airworthiness Limitations,'' of the Bombardier Time Limits/Maintenance Check, CH 350, Revision 13, dated June 14, 2022.

(v) Bombardier Temporary Revision 5–2–31, dated January 31, 2023.

(vi) Bombardier Temporary Revision 5–2–102, dated January 31, 2023.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*

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

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

Issued on December 8, 2023.

Victor Wicklund,

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

[FR Doc. 2023–27387 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2429; Airspace Docket No. 23–AGL–37]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Anderson, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D and Class E airspace at Anderson, IN. The FAA is proposing this action as the result of an airspace review conducted due to the decommissioning of the Muncie very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name of the airport would also be updated to coincide with the FAA's aeronautical database. This action will bring the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

DATES: Comments must be received on or before February 2, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2429 and Airspace Docket No. 23–AGL–37 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 OF THE West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/*. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post 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–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments

received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class D and Class E airspace is published in paragraphs 5000 and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by:

Amending the Class D airspace to within a 4-mile (decreased from a 4.4-mile) radius of the Anderson Municipal Airport-Darlington Field, Anderson, IN; updating the name (previously Anderson Municipal Airport) of the airport to coincide with the FAA's aeronautical database; and updating the outdated terms ''Notice to Airmen'' and ''Airport Facility/Directory'' to ''Notice to Air Missions'' and ''Chart Supplement'';

And amending the Class E airspace extending upward from 700 feet above the surface at Anderson Municipal Airport-Darlington Field by updating the name (previously Anderson Municipal Airport) to coincide with the FAA's aeronautical database.

The FAA is proposing this action as the result of an airspace review conducted due to the decommissioning of the Muncie VOR as part of the VOR MON Program and to support IFR operations.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL IN D Anderson, IN [Amended]

Anderson Municipal Airport-Darlington Field, IN
(Lat. 40°06′31″ N, long. 85°36′47″ W)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4-mile radius of Anderson Municipal Airport-Darlington Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

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

* * * * *

AGL IN E5 Anderson, IN [Amended]

Anderson Municipal Airport-Darlington Field, IN
(Lat. 40°06′31″ N, long. 85°36′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Anderson Municipal Airport-Darlington Field.

* * * * *

Issued in Fort Worth, Texas, on December 13, 2023.

Martin A. Skinner,

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

[FR Doc. 2023–27711 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2430; Airspace Docket No. 23–AGL–38]

RIN 2120–AA66

Amendment of Class E Airspace; Danville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Danville, IL. The FAA is proposing this action as the result of an airspace review conducted due to the decommissioning of the Danville very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name and geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database. This action will bring the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

DATES: Comments must be received on or before February 2, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2430 and Airspace Docket No. 23–AGL–38 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 OF THE West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post 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–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (increased from a 6.5-mile) radius of Vermilion Regional Airport, Danville, IL; updating the name (previously Vermilion County Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and removing the city associated with the airport from the header to comply with changes to FAA Order JO 7400.2P, Procedures for Handling Airspace Matters.

The FAA is proposing this action as the result of an airspace review conducted due to the decommissioning of the Danville VOR as part of the VOR MON Program and to support IFR operations.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

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

* * * * *

AGL IL E5 Danville, IL [Amended]

Vermilion Regional Airport, IL
(Lat. 40°11′59″ N, long. 87°35′43″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Vermilion Regional Airport.

* * * * *

Issued in Fort Worth, Texas, on December 13, 2023.

Martin A. Skinner,

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

[FR Doc. 2023–27712 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0069; FRL–10579–11–OCSPP]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities (November 2023)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before January 18, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0069, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anne Overstreet, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–2425, email address: *BPPDFRNotices@epa.gov;* or Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide

chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *https://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

A. Notice of Filing—Amended Tolerances for Inerts

PP IN–11655. EPA–HQ–OPP–2022–0850. Corteva Agriscience, 9330 Zionsville Road, Indianapolis, IN 46268, requests to amend the tolerance descriptor under 40 CFR 180.560 for residues of cloquintocet-mexyl (acetic acid, [(5-chloro-8-quniolinyl)oxy]-, 1-methylhexyl ester)(CAS Reg. No. 99607–70–2) and its acid metabolite (5-chloro-8-quinlinoxyacetic acid). Corteva is requesting that the active ingredients listed in the tolerance expression be removed so that the safener can be used in any herbicide formulation applied to the commodities listed. There is no proposed change to the numerical tolerance or the listed commodities under § 180.560, as such, this action will not change the magnitude of the residues already established for this safener. Adequate enforcement methodologies have already been published in the **Federal Register** on June 29, 2011 (76 FR 38035) (FRL–8877–2). The two enforcement methods available are High Performance Liquid Chromatography with Ultraviolet Detection (HPLC–UV) Method REM 138.01 for the determination of cloquintocet-mexyl (parent) and the HPLC–UV Method REM 138.10 which allows for determination of its acid metabolite. *Contact:* RD.

B. Notice of Filing—New Tolerance Exemptions for Non-Inerts (Except PIPS)

PP 3F9054. EPA–HQ–OPP–2023–0561. GreenLight Biosciences, Inc. 200 Boston Ave., Suite 1000, Medford, MA 02155, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the miticide vadescana dsRNA in or on honey and honeycomb. The petitioner believes no analytical method is needed based on the low toxicity demonstrated in the available toxicological data. *Contact:* BPPD.

C. Notice of Filing—New Tolerance Exemptions for PIPS

PP 3F9076. EPA–HQ–OPP–2022–0231. Bayer CropScience LP, 700 Chesterfield Pkwy W. Chesterfield, MO 63017, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectants (PIPs) *Bacillus thuringiensis* Vpb4Da2 and *Brevibacillus laterosporus* Mpp75Aa1.1 in or on corn. The petitioner believes no analytical method is needed because this petition is for a permanent exemption from the requirement of a tolerance without numerical limitation. *Contact:* BPPD.

D. Notice of Filing—New Tolerances for Non-Inerts

1. *PP3E9057.* EPA–HQ–OPP–2023–0319. ISK Biosciences Corporation, 7470 Auburn Rd., Suite A, Concord, Ohio 44077, requests to establish petition for import tolerance under FFDCA section 408(d)(1) for residues of fluazinam and its metabolites and degradates in or on asian pear. Import tolerances in 40 CFR part 180 for residues of the fungicide, Fluazinam (CAS #79622–59–6) is 3-chloro-N-[3-chloro-2, 6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine. Other identifiers are B1216, IKF 1216, and PP192. *Contact:* RD.

2. *PP* 3E9057. EPA–HQ–OPP–2023–0319. ISK Biosciences Corporation, 7470 Auburn Rd., Suite A, Concord, Ohio 44077, requests to establish an import tolerance in 40 CFR part 180 for residues of the fungicide fluazinam (3-chloro-N-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine) in or on pear, Asian at 0.2 parts per million (ppm). Liquid chromatography tandem mass spectrometry (LC–MS/MS) is used to measure and evaluate the chemical fluazinam and its metabolite AMGT. *Contact:* RD.

3. *PP 2F9038.* EPA–HQ–OPP–2023–0308. BASF Corporation, 26 Davis Drive, Research Triangle Park, NC, 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide pendimethalin in or on the raw agricultural commodities fig at 0.1 ppm and fig, dried at 3.0 ppm. The method of aqueous organic solvent extraction, column clean up, and quantitation by GC is used to measure and evaluate the chemical pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite (M455H025). *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: December 12, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–27780 Filed 12–18–23; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 88, No. 242
Tuesday, December 19, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 22, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: Rural eConnectivity (ReConnect) Program.

OMB Control Number: 0572–0152.

Summary of Collection: On March 23, 2018, Congress passed the Consolidated Appropriations Act 2018 (the Fiscal Year 2018 Appropriations (Pub. L.115–141)) which established the broadband loan and grant Reconnect program, the Rural eConnectivity (ReConnect) Program. One of the essential goals of the ReConnect Program is to expand broadband service to rural areas without sufficient access to broadband, defined as 100 megabits per second (Mbps) downstream and 20 Mbps upstream. For this purpose, Congress provided the Rural Utilities Service (RUS) with $600 million and expanded its existing authority to make loans and grants. Loans and grants are limited to the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible communities. The Fiscal Year 2018 Appropriations also authorized technical assistance to assist the agency in expanding needed service to the most rural communities. For fiscal year (FY) 2019, Congress funded an additional $550 million for the pilot. For FY 2022, the ReConnect program received $800 million. There was a second application round in FY 22 and the budget was further expanded to $1.15 billion.

In facilitating the expansion of broadband services and infrastructure, the program will fuel long-term rural economic development and opportunities in rural America. One of those opportunities is precision agriculture (PA). PA is a new concept adopted in rural America used to increase production, reduce labor time, and ensure the effective management of fertilizers and irrigation processes. PA is the science of improving crop yields and assisting management decisions using high technology sensor and analysis tools. The use of this technology requires a robust broadband connection. The awards made under this program will bring high speed broadband to farms which will ultimately increase productivity.

Need and Use of the Information: Pursuant to the Reconnect Program authorization in the Consolidated Appropriations Act, 2018 (Pub. L. 115–141, 779 (2018)), RUS is to conduct a Reconnect broadband program under the RE Act. On February 21, 2021, the ReConnect Regulation, 7 CFR 1740, was established. 7 CFR 1740.49 of the regulation states that applicants are required to submit an application for loans and loan guarantees containing the information that RUS shall require, and that the project meet the minimum level of broadband in the service area. 7 CFR 1740.80 sets out the reporting requirements.

In the broadband regulations implementing the RE Act broadband statute, 7 CFR 1740.60 contains the elements of the application intake that are required in the Reconnect program. Moreover, pursuant to 7 CFR 1740.44 adequate financial, investment, operational, reporting, and managerial controls are also required in the loan documents. Lastly, all the certifications asked for are required by 7 CFR 1740.46, most of which are already required by federal law.

The Agency is required to analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for Applicant projects or proposals seeking funding. Applicants are encouraged to refer to 7 CFR part 1970 for all Rural Development's environmental policies. All Applicants must follow the requirements in 7 CFR part 1970 and are required to complete an Environmental Questionnaire, to provide a description of program activities, and to submit all other required environmental documentation as requested in the application system or by the Agency after the application is submitted. It is the Applicant's responsibility to obtain all necessary federal, tribal, state, and local governmental permits and approvals necessary for the proposed work to be conducted.

Description of Respondents: Businesses or other for-profits; Not-for-profit institutions.

Number of Respondents: 480.

Frequency of Responses: Reporting: On Occassion.

Total Burden Hours: 1,468,032.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–27845 Filed 12–18–23; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: 2024–2025 National School Foods Study

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection that combines the School Nutrition and Meal Cost Study-II (SNMCS–II), School Food Purchase Study-IV (SFPS–IV), and a second Fresh Fruit and Vegetable Program Evaluation (FFVP–II) into one coordinated effort named the 2024–2025 National School Foods Study. The purpose of this combined effort is to reduce overall burden for respondents across the three studies and provide a comprehensive picture of the school-based child nutrition (CN) programs in the 2024–2025 school year.

DATES: Written comments must be received on or before February 20, 2024.

ADDRESSES: Comments may be emailed to *Ashley.Chaifetz@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Ashley Chaifetz at 470–528–7717.

SUPPLEMENTARY INFORMATION:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: 2024–2025 National School Foods Study.

Form Number: N/A.

OMB Number: 0584–NEW.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The SNMCS–II component of the 2024–2025 National School Foods Study will provide a comprehensive picture of the National School Lunch and School Breakfast Programs (NSLP and SBP, respectively), and will provide critical information about the nutritional quality, cost, and acceptability of school meals twelve years after major reforms began being phased in during the 2012–2013 school year (SY). SNMCS–II will collect a broad range of data from nationally representative samples of public school food authorities (SFAs); public, non-charter schools; students; and parents/guardians during SY 2024–2025. These data will provide Federal, State, and local policymakers with current information about how federally sponsored school meal programs are operating by updating the information that was collected in SY 2014–2015 for SNMCS–I. In addition, findings from the SNMCS–II component will be compared to those from SNMCS–I to explore trends in key domains including the nutrient content of school meals, meal costs and revenues, and student participation, plate waste, and dietary intakes. SNMCS–II will also estimate the costs of producing reimbursable school meals in five States and Territories outside of the 48 contiguous States and the District of Columbia (DC) and examine the relationship of costs to revenues in those five outlying areas.

The SFPS–IV component of the study will provide national estimates of public SFA food acquisitions (commercial purchases and USDA Foods) both in terms of cost and volume, in addition to a description and analysis of food purchase practices in SY 2024–2025. In addition, the study will assess changes in food acquisitions and purchase practices since the previous study in SY 2009–2010 to provide important information about the impact of the updated nutrition standards and other changes. Information about food buying efficiencies will be useful for SFAs as they strive to maximize available resources and improve food service operations.

For SNMCS–II and SFPS–IV, these instruments were initially approved as part of OMB Control No. 0584–0648 (SNMCS–II) and OMB Control No. 0584–0471 (SFPS–IV). Those data collections were postponed and eventually canceled due to the COVID–19 pandemic. The instruments will be updated and resubmitted.

The FFVP–II component of the study will compare student- and school-level outcomes in participating and nonparticipating schools in SY 2024–2025, including student consumption of and attitudes towards fruits and vegetables, student energy intake and nutritional status, and school provision of nutrition education. It will also examine implementation components, such as school characteristics, program delivery, student participation and characteristics of participating and nonparticipating students.

Section 28(a) of the Richard B. Russell National School Lunch Act authorizes this assessment of NSLP, SBP, and FFVP, including the cost of producing meals and the nutrient profile of meals.

SFAs are sampled into different groups, which drive the data collection activities they are asked to participate in. Samples in Groups 1a, 1b, 1c, 2a, 2b, and 3 are limited to the contiguous 48 States and DC. The outlying areas sample includes SFAs and schools in Alaska, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

Data collected from the Group 1a, 1c, 2a, and 3 samples will provide the precision required for national estimates of SFA-level characteristics and food service operations.

Data collected from Groups 1a and 1b will be used to address study objectives related to types, amounts, and costs of food purchases and USDA Foods; changes in the mix of food acquired by schools since SFPS–III and the extent to which the costs of food have changed; the mix of foods acquired by various subgroups; school food purchase practices; and relationships between costs of food, food purchase practices, and SFA characteristics.

Data collected from the Group 2a sample will be used to address study objectives related to the school nutrition environment and food service operations; the food and nutrient content of school meals; student participation in the NSLP and SBP; student/parent satisfaction with the school meal programs; and students' characteristics and dietary intakes.

Data collected from the Group 2b sample will be used to address study objectives related to the characteristics of SFAs, schools, and students participating in the FFVP; student/parent satisfaction with the FFVP; and dietary intakes of students who do and do not participate in the FFVP.

Data collected from the Group 3 sample will be used to address study objectives related to the school nutrition

environment and food service operations; the food and nutrient content of school meals; the costs to produce reimbursable school lunches and breakfasts, including indirect and local administrative costs, and the ratios of revenues to costs; and plate waste in the school meals programs.

Data collected from the outlying areas sample will be used to estimate the costs of producing reimbursable school meals and the ratios of revenues to costs.

Affected Public: Individual/Household respondents include: (1) Students (1st grade through high school) and (2) their parents/guardians. Business or Other For Profit respondents include food service management company (FSMC) managers, and school food distributors. State, Local, and Tribal Governments respondent groups include: (1) State Child Nutrition Agency (CN) directors; (2) State Education Agency finance officers; (3) State Distributing Agency (SDA) directors; (4) school district superintendents; (5) SFA directors; (6) local educational agency business managers; (7) school nutrition managers (SNMs); (8) principals; and (9) school study liaisons appointed by principals.

Estimated Number of Respondents: A total of 26,547 members of the public will be initially contacted to participate in the study. This includes: 20,056 from Individuals/Households, 66 from Business or Other For Profits, and 6,425 from State, Local, and Tribal Governments. Initial contact will vary by type of respondent and may include study notification, recruiting, or data collection. FNS anticipates that approximately 16,537 of this sample will respond to initial contact and 10,010 will not respond. Some respondents who respond to the initial contact may subsequently become non-respondents to one or more components of the data collection. The number of unique respondents expected to provide data for the study is 12,257.

The Group 1a completed sample includes 88 SFAs and no schools. SFA directors will provide information for the SFA Quarterly Program Data Form and Quarterly Food Purchase Data, and participate in the Food Purchase Planning Interview; SFA Director Survey (SNMCS–II and SFPS–IV components); and SFA Year-End Follow-Up Survey. The Group 1b completed sample includes 276 SFAs and no schools. SFA directors will provide information for the SFA Quarterly Program Data Form and Quarterly Food Purchase Data, and participate in the Food Purchase Planning Interview; SFA Director Survey (SFPS–IV component); and SFA Year-End Follow-Up Survey. Forty-nine SDA directors will provide quarterly USDA Foods data for Groups 1a and 1b. The Group 1c completed sample includes 48 SFAs and no schools. SFA directors will participate in the SFA Director Survey (SNMCS–II component).

The Group 2a completed sample comprises 133 SFAs, 265 schools, and 2,177 students and their parents/guardians. SFA and school staff will participate in the SFA Director and School Planning Interviews; SFA Director Survey (SNMCS–II component), SNM Survey, and Principal Survey; the Menu Survey; and Observation Guide and Reimbursable Meal Sales Data Form. Students and parents/guardians will complete the Student Interview; 24-hour Dietary Recall; and Parent Interview.

The Group 2b completed sample comprises 100 SFAs, 200 schools, and 1,600 students and their parents/guardians. State CN directors will participate in the FFVP State Agency Survey. SFA and school staff will participate in the SFA Director and School Planning Interviews; SFA Director Survey (FFVP–II component) and SNM Survey; the FFVP–II Menu Survey; and Observation Guide and Reimbursable Meal Sales Data Form. Students and parents/guardians will complete the Student Interview; In-school Intake Dietary Recall; and Parent Interview. Forty-seven State CN directors will complete the Follow-Up State Child Nutrition Agency Survey.

The Group 3 completed sample includes 265 SFAs and 796 schools. SFA and school staff will participate in the SFA Director and School Planning Interviews; SFA On-Site Cost Interview and Food Cost Worksheet; SFA Follow-Up Web Survey and Cost Interview; SNM Cost Interview; Principal Cost Interview; SFA Director Survey (SNMCS–II component), SNM Survey, and Principal Survey; the Menu Survey; and Observation Guide. Forty State Education Agency finance officers will complete the State Agency Indirect Cost Survey. Plate waste will be observed for 4,140 reimbursable lunches and 2,120 reimbursable breakfasts at a subsample of 138 schools among this Group 3 sample.

The outlying areas sample is divided into two groups: full outlying areas and limited outlying areas. Alaska, Guam, and Hawaii will participate in the full outlying areas data collection, which includes SFA- and school-level data collection; Puerto Rico and the U.S. Virgin Islands will participate in a limited outlying areas data collection, which includes only SFA-level data collection. For the full outlying areas collection, SFA and school staff in 31 SFAs and 138 schools will complete the SFA Director and School Planning Interviews; SFA On-Site Cost Interview and Food Cost Worksheet; SFA Follow-Up Web Survey and Cost Interview; SNM Cost Interview; Principal Cost Interview; and the Menu Survey. One State Education Agency finance officer will complete the State Agency Indirect Cost Survey. For the limited outlying areas collection, SFA staff in three SFAs will complete the SFA Director Planning Interview, SFA On-Site Cost Interview and Food Cost Worksheet; and SFA Follow-Up Web Survey and Cost Interview.

Estimated Number of Responses per Respondent: Respondents will be asked to respond to each specific data collection activity once, except for SDA directors who will be asked to respond four times. The overall average number of responses per respondent across the entire collection is 6.34.

Estimated Total Annual Responses: 168,384 total annual responses.

Estimated Time per Response: The estimated time of response varies from 1 minute (0.0167 hours) to 9 hours for respondents and 0 minutes (0.0000 hours) to 17 minutes (0.2839 hours) for non-respondents, as shown in the burden table below, with an average estimated time of 13 minutes (0.2219) hours for all respondents and non-respondents.

Estimated Total Annual Burden on Respondents: 2,241,600 minutes (37,360 hours). See the table below for estimated total annual burden for each type of respondent.

BILLING CODE 3410–30–P

Burden Table

					Responsive					Non-Responsive					
Respondent Category	Type of respondents	Instruments	Document	Sample Size	Number of respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Number of Non-respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Grand Total Annual Burden Estimate (hours)
State/Local Government	State Child Nutrition Agency Directors (Groups 1a, 1b, 2a, 2b, 3, Full OA)	Recruitment (Group 1a, 1b, 2a, 2b, 3, Full OA) (a)	Study Webinar Invitation	52	52	1	52	0.0501	2.61	0	1	0	0.0223	0.00	2.61
			Study Webinar	52	42	1	42	0.5000	21.00	10	1	10	0.0223	0.22	21.22
			State Child Nutrition Director Study Introduction and Data Request Email (c)	52	52	1	52	0.3340	17.37	0	1	0	0.0223	0.00	17.37
			Study Objectives	52	52	1	52	0.0334	1.74	0	1	0	0.0223	0.00	1.74
			Sample Notification Email from ROs to State CN Directors	52	52	1	52	0.0835	4.34	0	1	0	0.0223	0.00	4.34
			SFA Director Sample Notification Email from State CN Directors	52	52	1	52	0.0334	1.74	0	1	0	0.0223	0.00	1.74
	State Child Nutrition Agency Directors (Limited Cutlying Areas)	Recruitment (Limited Outlying Areas) (a)	Study Webinar Invitation	2	2	1	2	0.0501	0.10	0	1	0	0.0223	0.00	0.10
			Study Webinar	2	2	1	2	0.5000	1.00	0	1	0	0.0223	0.00	1.00
			State Child Nutrition Director Study Introduction and Data Request Email I(c)	2	2	1	2	0.3340	0.67	0	1	0	0.0223	0.00	0.67
			Study Objectives and Overview	2	2	1	2	0.0334	0.07	0	1	0	0.0223	0.00	0.07
			SFA Director Sample Notification Email from State CN Directors	2	2	1	2	0.0334	0.07	0	1	0	0.0223	0.00	0.07
	State Child Nutrition Agency Directors (Group 2b)	FFVP State Agency Survey (Group 2b)	FFVP State Agency Survey Email	49	47	1	47	0.0334	1.57	2	1	2	0.0223	0.04	1.61
			FFVP State Agency Survey (i)	49	47	1	47	0.3300	15.51	2	1	2	0.0223	0.04	15.55
	State Education Agency Finance Officers (Group 3)	Indirect Cost Survey (Group 3) (a)	State Agency Indirect Cost Survey Letter/Email	49	47	1	47	0.0334	1.57	2	1	2	0.0223	0.04	1.61
			State Agency Indirect Cost Survey (c)¸(i)	49	47	1	47	0.1670	7.85	2	1	2	0.0223	0.04	7.89
			Study Overview	49	47	1	47	0.0334	1.57	2	1	2	0.0223	0.04	1.61
	State Education Agency Finance Officers (Full Outlying Areas)	Indirect Cost Survey (Full Outlying Areas) (a)	State Agency Indirect Cost Survey Letter/Email	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
			State Agency Indirect Cost Survey (c)¸(d)(i)	1	1	1	1	0.1670	0.17	0	1	0	0.0223	0.00	0.17

Burden Table

					Responsive					Non-Responsive					
Respondent Category	Type of respondents	Instruments	Document	Sample Size	Number of respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Number of Non-respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Grand Total Annual Burden Estimate (hours)
			Study Overview	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
	State Distributing Agency Directors (Group 1a, 1b, 3)	Quarterly USDA Foods Data Request (Group 1a, 1b, 3) (a)	SFPS Request to SDAs to Submit USDA Foods Data	49	49	4	196	0.0501	9.82	0	4	0	0.0223	0.00	9.82
			SFPS Overview of USDA Foods Data	49	49	4	196	0.0501	9.82	0	4	0	0.0223	0.00	9.82
			SDA Quarterly USDA Foods Data Request (c) (i)	49	49	4	196	0.5000	98.00	0	4	0	0.0223	0.00	98.00
			SFPS Reminder Email for USDA Foods Data	49	49	8	392	0.0167	6.55	0	8	0	0.0223	0.00	6.55
			SFPS Reminder Call Scripts	49	49	4	196	0.0835	16.37	0	4	0	0.0223	0.00	16.37
	Superintendents (Group 2a, 2b, 3)	Recruitment (Groups 2a, 2b, 3) (a)	SFA Director Recruitment Advance Letter/Email	818	572	1	572	0.0334	19.10	246	1	246	0.0223	5.49	24.59
			SNA Endorsement Letter	818	572	1	572	0.0334	19.10	246	1	246	0.0223	5.49	24.59
			Study Overview	818	572	1	572	0.0334	19.10	246	1	246	0.0223	5.49	24.59
			Recruiting Call Script	818	572	1	572	0.5000	286.00	246	1	246	0.0668	16.43	302.43
	Superintendents (Full Outlying Areas)	Recruitment (Full Outlying Areas) (a)	SFA Director Recruitment Advance Letter/Email	34	32	1	32	0.0334	1.07	2	2	4	0.0223	0.09	1.16
			Recruiting Call Script	34	32	1	32	0.5000	16.00	2	1	2	0.0668	0.13	16.13
			Study Overview	34	32	1	32	0.0334	1.07	2	1	2	0.0223	0.04	1.11
			SNA Endorsement Letter (j)	33	32	1	32	0.0334	1.07	1	1	1	0.0223	0.02	1.09
	Superintendents (Limited Outlying Areas)	Recruitment (Limited Outlying Areas) (a)	Recruiting Call Script	3	3	1	3	0.5000	1.50	0	1	0	0.0668	0.00	1.50
	SFA Directors (Group 1a, 1b, 2a, 2b, 3)	Recruitment (Group 1a, 1b, 2a, 2b, 3)	Study Webinar Invitation	1,535	1,535	1	1,535	0.0501	76.90	0	1	0	0.0223	0.00	76.90
			Study Webinar	1,535	461	1	461	0.5000	230.25	1,075	1	1,075	0.0223	23.96	254.21
	SFA Directors (Group 1a, 1b)	Recruitment (Group 1a, 1b)	SFA Director Recruitment Advance Letter/Email	683	479	1	479	0.0334	16.00	204	1	204	0.0223	4.55	20.55
			SNA Endorsement Letter	683	479	1	479	0.0334	16.00	204	1	204	0.0223	4.55	20.55

Burden Table

					Responsive					Non-Responsive					
Respondent Category	Type of respondents	Instruments	Document	Sample Size	Number of respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Number of Non-respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Grand Total Annual Burden Estimate (hours)
			Study Overview	683	479	1	479	0.0334	16.00	204	1	204	0.0223	4.55	20.55
			Recruiting Call Script	683	479	1	479	0.5000	239.50	204	1	204	0.0668	13.63	253.13
		Data Collection Coordination (Group 1a, 1b)	Food Purchase Planning Interview	683	479	1	479	0.2500	119.75	204	1	204	0.0668	13.63	133.38
			SFA Post-Planning Email	683	479	1	479	0.1670	79.99	204	1	204	0.0223	4.55	84.54
		Quarterly Program Data Form and Food Purchase Data Request (Group 1a, 1b)	SFPS Purchase Data Webinar Invitation	479	402	1	402	0.0501	20.14	77	1	77	0.0223	1.72	21.86
			SFPS Purchase Data Webinar	479	402	1	402	1.0000	402.00	77	1	77	0.0223	1.72	403.72
			SFPS Quarterly Program Data Form and Food Purchase Data Request Email	479	402	1	402	0.0835	33.57	77	1	77	0.0223	1.72	35.28
			Quarterly Program Data Form (c) (i)	479	402	1	402	0.2500	100.50	77	1	77	0.0668	5.14	105.64
			Quarterly Food Purchase Data Request (c)	479	402	1	402	6.0000	2412.00	77	1	77	0.0668	5.14	2417.14
			SFPS Quarterly Reminder Email	479	402	2	804	0.0501	40.28	77	2	154	0.0223	3.43	43.71
			SFPS Reminder Call Scripts	479	402	2	804	0.0835	67.13	77	2	154	0.0223	3.43	70.57
		Year-End Follow-Up Survey (Group 1a, 1b)	SFA Year-End Follow-Up Survey Invitation	402	362	1	362	0.0501	18.14	40	1	40	0.0223	0.89	19.03
			SFA Year-End Follow-Up Survey (c)	402	362	1	362	0.2500	90.50	40	1	40	0.0223	0.89	91.39
			SFPS Reminder Call Scripts	239	239	1	239	0.0835	19.96	0	1	0	0.0223	0.00	19.96
	SFA Directors (Groups 2a, 2b, 3)	Recruitment (Groups 2a, 2b, 3) (a)	SFA Director Recruitment Advance Letter/Email	818	572	2	1144	0.0334	38.21	246	2	492	0.0223	10.97	49.18
			SNA Endorsement Letter	818	572	1	572	0.0334	19.10	246	1	246	0.0223	5.49	24.59
			Study Overview	818	572	1	572	0.0334	19.10	246	1	246	0.0223	5.49	24.59
			Recruiting Call Script	818	572	1	572	0.5000	286.00	246	1	246	0.0668	16.43	302.43
			SFA Director Planning Interview	572	572	1	572	0.3340	191.05	0	1	0	0.0668	0.00	191.05

Burden Table

					Responsive					Non-Responsive					
Respondent Category	**Type of respondents**	**Instruments**	**Document**	**Sample Size**	**Number of respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Number of Non-respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Grand Total Annual Burden Estimate (hours)**
		Data Collection Coordination (Groups 2a, 2b, 3)	SFA Post-Planning Email	572	572	1	572	0.1670	95.52	0	1	0	0.0223	0.00	95.52
			Pre-Visit Reminder Email	572	572	1	572	0.0501	28.66	0	1	0	0.0223	0.00	28.66
	SFA Directors (Group 2a, 2b)	Data Collection Coordination (Group 2a, 2b)	School Roster Data Request (k)	260	86	1	86	1.0000	85.80	174	1	174	0.0668	11.64	97.44
	SFA Directors (Group 3)	Data Collection Coordination (Group 3)	Data Collection Activities and Respondents	312	312	1	312	0.0835	26.05	0	1	0	0.0223	0.00	26.05
		Cost Interview (Group 3)	SFA On-Site Cost Interview with Reference Guide (c)	312	294	1	294	3.0835	906.55	18	1	18	0.0668	1.20	907.75
			Food Cost Worksheet	312	294	1	294	0.1670	49.10	18	1	18	0.0668	1.20	50.30
		Follow-up Web Survey (Group 3)	SFA Follow-Up Web Survey and Interview Planning Email	294	294	1	294	0.0501	14.73	0	0	0	0.0223	0.00	14.73
	IFA Follow-Up Web Survey (c)	294	265	1	265	0.5000	132.50	29	1	29	0.0223	0.65	133.15		
		Follow-up Cost Interview (Group 3)	SFA Follow-Up Cost Interview with Reference Guide	294	261	1	261	2.0000	522.00	33	1	33	0.0223	0.74	522.74
	SFA Directors (Groups 1a, 1b, 1c, 2a, 2b, 3)	SFA Director Survey (Group 1c) (a)	SFA Director Survey Advance Letter/Email	63	63	1	63	0.0501	3.16	0	1	0	0.0223	0.00	3.16
			SFA Director Survey Email	63	48	1	48	0.0167	0.80	15	1	15	0.0223	0.33	1.14
		SFA Director Survey (Groups 1a, 1b, 2a, 2b, 3)	SFA Director Survey Email	1,051	1,051	1	1051	0.0167	17.55	0	1	0	0.0223	0.00	17.55
		SFA Director Survey (Group 1a)	SFA Director Survey (SNMCS-II & SFPS-IV) (c) (i)	116	88	1	88	1.5000	132.00	28	1	28	0.0223	0.62	132.62
		SFA Director Survey (Group 1b)	ISFA Director Survey (SFPS-IV) (c) (i)	363	276	1	276	1.2500	345.00	87	1	87	0.0223	1.94	346.94
		SFA Director Survey (Group 2b)	SFA Director Survey (FFVP-II) (c) (i)	111	100	1	100	0.3300	33.00	11	1	11	0.0223	0.25	33.25
		SFA Director Survey (Groups 1c, 2a, 3)	SFA Director Survey (SNMCS-II) (c) (i)	524	446	1	446	0.7500	334.50	78	1	78	0.0223	1.74	336.24
		SFA Director Survey (Groups 1a, 1b, 1c, 2a, 2b, 3)	SFA Director Survey Follow-Up Email	1,114	910	2	1820	0.0668	121.58	204	2	408	0.0223	9.10	130.67
			SFA Director Survey Reminder Call Script	557	557	1	557	0.0835	46.51	0	1	0	0.0223	0.00	46.51

Burden Table

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	SFA Directors (Full Outlying Areas)	Recruitment (Full Outlying Areas) (a)	SFA Director Recruitment Advance Letter/Email	34	32	1	32	0.0334	1.07	2	1	2	0.0223	0.04	1.11
			Study Overview	34	32	1	32	0.0334	1.07	2	1	2	0.0223	0.04	1.11
			Recruiting Call Script	34	32	1	32	0.5000	16.00	2	1	2	0.0668	0.13	16.13
			SNA Endorsement Letter (j)	33	31	1	31	0.0334	1.04	2	1	2	0.0223	0.04	1.08
		Data Collection Coordination (Full Outlying Areas)	SFA Director Planning Interview	32	32	1	32	0.9018	28.86	0	1	0	0.0668	0.00	28.86
			SFA Post-Planning Email	32	32	1	32	0.1670	5.34	0	1	0	0.0223	0.00	5.34
			Data Collection Activities and Respondents	32	32	1	32	0.0835	2.67	0	1	0	0.0223	0.00	2.67
			Pre-Target Week Reminder Email	32	32	1	32	0.0501	1.60	0	1	0	0.0223	0.00	1.60
		Cost Interview (Full Outlying Areas)	SFA On-Site Cost Interview with Reference Guide (c) (i)	32	31	1	31	3.0835	95.59	1	1	1	0.0668	0.07	95.66
			Food Cost Worksheet	32	31	1	31	0.1670	5.18	1	1	1	0.0668	0.07	5.24
		Follow-up Web Survey (Full Outlying Areas)	SFA Follow-Up Web Survey and Interview Planning Email	31	31	1	31	0.0501	1.55	0	1	0	0.0223	0.00	1.55
			SFA Follow-Up Web Survey (c)	31	30	1	30	0.5000	15.00	1	1	1	0.0223	0.02	15.02
		Follow-up Cost Interview (Full Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide	31	30	1	30	2.0000	60.00	1	1	1	0.0668	0.07	60.07
	SFA Directors (Limited Outlying Areas)	Recruitment (Limited Outlying Areas) (a)	SFA Director Recruitment Advance Letter/Email	3	3	1	3	0.0334	0.10	0	1	0	0.0223	0.00	0.10
			Study Overview	3	3	1	3	0.0334	0.10	0	1	0	0.0223	0.00	0.10
			Recruiting Call Script	3	3	1	3	0.5000	1.50	0	1	0	0.0668	0.00	1.50
		Data Collection Coordination (Limited Outlying Areas)	SFA Director Planning Interview	3	3	1	3	0.1670	0.50	0	1	0	0.0668	0.00	0.50
			SFA Post-Planning Email	3	3	1	3	0.1670	0.50	0	1	0	0.0223	0.00	0.50

Burden Table

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Respondent Category	Type of respondents	Instruments	Document	Sample Size	Number of respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Number of Non-respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Grand Total Annual Burden Estimate (hours)
			Data Collection Activities and Respondents	3	3	1	3	0.0835	0.25	0	1	0	0.0223	0.00	0.25
			Pre-Target Week Reminder Email	3	3	1	3	0.0501	0.15	0	1	0	0.0223	0.00	0.15
		Cost Interview (Limited Outlying Areas)	SFA On-Site Cost Interview with Reference Guide (c) (i)	3	3	1	3	1.5000	4.50	0	1	0	0.0668	0.00	4.50
			Food Cost Worksheet	3	3	1	3	0.1670	0.50	0	1	0	0.0668	0.00	0.50
		Follow-up Web Survey (Limited Outlying Areas)	SFA Follow-Up Web Survey and Interview Planning Email	3	3	1	3	0.0501	0.15	0	1	0	0.0223	0.00	0.15
			SFA Follow-Up Web Survey (c)	3	3	1	3	0.5000	1.50	0	1	0	0.0223	0.00	1.50
		Follow-up Cost Interview (Limited Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide	3	3	1	3	1.7500	5.25	0	1	0	0.0668	0.00	5.25
		Menu Survey (Limited Outlying Areas)	LOA Menu Survey	3	3	1	3	3.5000	10.50	0	1	0	0.0668	0.00	10.50
	LEA Business Managers (Group 3)	Data Collection Coordination (Group 3)	Pre-Visit Reminder Email	312	312	1	312	0.0501	15.63	0	1	0	0.0223	0.00	15.63
		Cost Interview (Group 3) (a)	SFA On-Site Cost Interview with Reference Guide (c) (i)	312	294	1	294	3.0835	906.55	18	1	18	0.0668	1.20	907.75
		Follow-up Cost Interview (Group 3)	SFA Follow-Up Cost Interview with Reference Guide	294	261	1	261	2.0000	522.00	33	1	33	0.0668	2.20	524.20
	LEA Business Managers (Full Outlying Areas)	Data Collection Coordination (Full Outlying Areas)	Pre-Target Week Reminder Email	32	32	1	32	0.0501	1.60	0	1	0	0.0223	0.00	1.60
		Cost Interview (Full Outlying Areas) (a)	ISFA On-Site Cost Interview with Reference Guide (c) (i)	32	31	1	31	3.0835	95.59	1	1	1	0.0668	0.07	95.66
		Follow-up Cost Interview (Full Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide	31	30	1	30	2.0000	60.00	1	1	1	0.0668	0.07	60.07
	LEA Business Managers (Limited Outlying Areas)	Data Collection Coordination (Limited Outlying Areas)	Pre-Target Week Reminder Email	3	3	1	3	0.0501	0.15	0	1	0	0.0223	0.00	0.15
		Cost Interview (Limited Outlying Areas) (a)	SFA On-Site Cost Interview with Reference Guide (c) (i)	3	3	1	3	1.5000	4.50	0	1	0	0.0668	0.00	4.50
		Follow-up Cost Interview (Limited Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide	3	3	1	3	1.7500	5.25	0	1	0	0.0668	0.00	5.25

Burden Table

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Respondent Category	**Type of respondents**	**Instruments**	**Document**	**Sample Size**	**Number of respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Number of Non-respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Grand Total Annual Burden Estimate (hours)**
	Subtotal of State CN Agency Directors, State Education Agency Finance Officers, State Distributing Agency Directors, Superintendents, SFA Directors, and LEA Business Managers			2,956	2,235	11.56	25,842	0.3832	9,902.39	721	8.71	6,279	0.03	198.94	10101.33
	School Nutrition Managers (Groups 2a, 2b, 3)	Data Collection Coordination (Groups 2a, 2b, 3) (a)	SNM Introduction Email	1,339	1,272	1	1,272	0.1336	169.94	67	1	67	0.0223	1.49	171.43
		Data Collection Coordination (Groups 2a, 2b, 3)	Pre-Visit Reminder Email	1,339	1,272	1	1,272	0.0501	63.73	67	1	67	0.0223	1.49	65.22
Observation (Groups 2a, 2b, 3)	Observation Guide (c)(e)	1,339	1,272	1	1,272	0.3340	424.85	67	1	67	0.0223	1.49	426.34		
	School Nutrition Managers (Group 2a)	Menu Survey (Group 2a)	Menu Survey (c) (i)	279	265	1	265	9.0000	2385.00	14	1	14	0.0668	0.94	2385.94
		School Nutrition Manager Survey (Group 2a)	SNM Survey (c)	279	265	1	265	0.3340	88.51	14	1	14	0.0223	0.31	88.82
		Reimbursable Meal Sales Data (Group 2a)	Reimbursable Meal Sale Data Request Form	279	252	1	252	0.1670	42.08	27	1	27	0.0223	0.60	42.69
		Point of Sale Form (Group 2a)	Point-of-Sale Form (e)	279	265	1	265	0.0835	22.13	14	1	14	0.0223	0.31	22.44
	School Nutrition Managers (Group 2b)	Menu Survey (Group 2b)	FFVP Menu Survey (i)	222	211	1	211	0.5000	105.50	11	1	11	0.0668	0.73	106.23
		School Nutrition Manager Survey (Group 2b)	FFVP School Nutrition Manager Survey (c)	222	200	1	200	0.3340	66.80	22	1	22	0.0223	0.49	67.29
		Reimbursable Meal Sales Data (Group 2b)	Reimbursable Meal Sale Data Request Form	222	200	1	200	0.1670	33.40	22	1	22	0.0223	0.49	33.89
		Point of Sale Form (Group 2b)	Point-of-Sale Form (e)	222	211	1	211	0.0835	17.62	11	1	11	0.0223	0.25	17.86
	School Nutrition Managers (Group 3)	Data Collection Coordination (Group 3)	School Planning Interview (c)	838	796	1	796	0.2500	199.00	42	1	42	0.0668	2.81	201.81
		Menu Survey (Group 3)	Menu Survey (c) (i)	838	796	1	796	9.0000	7164.00	42	1	42	0.0668	2.81	7166.81
		School Nutrition Manager Survey (Group 3)	SNM Survey (c)	838	796	1	796	0.3340	265.86	42	1	42	0.0223	0.94	266.80
	Ist Interview (Group 3)	SNM Cost Interview with Reference Guide (c)	838	796	1	796	1.5000	1194.00	42	1	42	0.0668	2.81	1196.81	
		On-Site Self-Serve/Made-to-Order Bar Form (Group 3)	On-Site Self-Serve/Made-to-Order Bar Form (e)	126	120	1	120	0.1670	20.04	6	1	6	0.0223	0.13	20.17
		Plate Waste Observation (Group 3)	Plate Waste Observation Booklet (e)	150	138	1	138	0.1670	23.05	12	1	12	0.0223	0.27	23.31

Burden Table

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Respondent Category	**Type of respondents**	**Instruments**	**Document**	**Sample Size**	**Number of respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Number of Non-respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Grand Total Annual Burden Estimate (hours)**
	School Nutrition Managers (Full Outlying Areas)	Data Collection Coordination (Full Outlying Areas) (a)	SNM Introduction Letter	145	138	1	138	0.1336	18.44	7	1	7	0.0223	0.16	18.59
		Data Collection Coordination (Full Outlying Areas)	School Planning Interview (c)	145	138	1	138	0.0668	9.22	7	1	7	0.0668	0.47	9.69
			Pre-Target Week Reminder Email	145	138	1	138	0.0501	6.91	7	1	7	0.0223	0.16	7.07
		Menu Survey (Full Outlying Areas)	FOA Menu Survey (c) (i)	145	138	1	138	9.0000	1242.00	7	1	7	0.0668	0.47	1242.47
		Cost Interview (Full Outlying Areas)	SNM Cost Interview with Reference Guide (c)	145	138	1	138	1.5000	207.00	7	1	7	0.0668	0.47	207.47
	School Liaisons (Group 2a, 2b)	Data Collection Coordination (Group 2a, 2b) (a)	School Planning Interview (c)	501	476	1	476	0.2500	119.00	25	1	25	0.0668	1.67	120.67
			Pre-Visit Reminder Email	476	476	1	476	0.0501	23.85	0	1	0	0.0223	0.00	23.85
			School Roster Data Request (k)	319	319	1	319	1.0000	318.92	0	1	0	0.0668	0.00	318.92
	Subtotal of School Nutrition Managers and School Liaisons			1,985	1,886	5.88	11,088	1.2835	14,230.84	99	5.88	582	0.0374	21.75	14252.59
	Principals (Groups 2a, 2b, 3)	Data Collection Coordination (Groups 2a, 2b, 3) (a)	Principal Introduction Email to Schools	1,339	1,272	1	1272	0.1336	169.94	67	1	67	0.0223	1.49	171.43
			Pre-Visit Reminder Email	1,272	1,272	1	1272	0.0501	63.73	0	1	0	0.0223	0.00	63.73
	Principals (Groups 2a, 3)	Principal Survey (Groups 2a, 3)	Principal Survey Email	1,117	1,117	1	1117	0.0167	18.65	0	1	0	0.0223	0.00	18.65
			Principal Survey Follow-Up Email	1,117	559	2	1117	0.0668	74.62	559	1	559	0.0223	12.45	87.07
			Principal Survey Reminder Call Script	558	558	1	558	0.0835	46.59	0	1	0	0.0223	0.00	46.59
			Principal Survey (c) (i)	1,117	955	1	955	0.5000	477.70	162	1	162	0.0223	3.60	481.30
	Principals (Group 2a, 2b)	Data Collection Coordination (Group 2a, 2b)	Next Steps for Principals Email	476	476	1	476	0.0334	15.90	0	1	0	0.0223	0.00	15.90
	Principals (Group 3)	Cost Interview (Group 3)	Principal Cost Interview with Reference Guide (c)	838	796	1	796	0.7500	597.00	42	1	42	0.0668	2.81	599.81
	Principals (Full Outlying Areas)	Data Collection Coordination (Full Outlying Areas) (a)	Principal Introduction Letter to Schools	145	138	1	138	0.1336	18.44	7	1	7	0.0223	0.16	18.59
		Cost Interview (Full Outlying Areas)	Pre-Target Week Reminder Email	145	138	1	138	0.0501	6.91	7	1	7	0.0223	0.16	7.07

Burden Table

					Responsive					Non-Responsive					
Respondent Category	**Type of respondents**	**Instruments**	**Document**	**Sample Size**	**Number of respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Number of Non-respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Grand Total Annual Burden Estimate (hours)**
			Principal Cost Interview with Reference Guide (c) (i)	145	138	1	138	0.7500	103.50	7	1	7	0.0668	0.47	103.97
	Subtotal of Principals			1,484	1,410	5.66	7,977	0.1997	1,592.98	74	11.49	850	0.0249	21.14	1,614.12
	Subtotal State/Local Governments			6,425	5,531	8.12	44,908	0.5729	25,726.21	894	8.63	7,711	0.0314	241.82	25,968.03
Business	FSMC Managers (Group 1a, 1b, 2a, 2b, 3)	Food Service Management Company Manager Recruitment (Groups 1a, 1b, 2a, 2b, 3) (a)	FSMC/Distributor Recruitment Letter/Email	30	30	1	30	0.0334	1.00	0	1	0	0.0223	0.00	1.00
			SNA Endorsement	30	30	1	30	0.0334	1.00	0	1	0	0.0223	0.00	1.00
			Study Overview	30	30	1	30	0.0334	1.00	0	1	0	0.0223	0.00	1.00
			FSMC/Distributor Recruiting Call Script	30	30	1	30	0.2500	7.50	0	1	0	0.0668	0.00	7.50
	Distributors (Group 1a, 1b)	Distributor Recruitment (Group 1a, 1b)	FSMC/Distributor Recruitment Letter/Email	30	30	1	30	0.0334	1.00	0	1	0	0.0223	0.00	1.00
			SNA Endorsement	30	30	1	30	0.0334	1.00	0	1	0	0.0223	0.00	1.00
			Study Overview	30	30	1	30	0.0334	1.00	0	1	0	0.0223	0.00	1.00
			FSMC/Distributor Recruiting Call Script	30	30	1	30	0.2500	7.50	0	1	0	0.0668	0.00	7.50
	FSMC Managers (Full Outlying Managers)	Food Service Management Company Manager Recruitment (Full Outlying Areas) (a) (f)	FSMC/Distributor Recruitment Letter/Email	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
			SNA Endorsement	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
			Study Objectives and Overview	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
			FSMC/Distributor Recruiting Call Script	1	1	1	1	0.2500	0.25	0	1	0	0.0668	0.00	0.25
		Food Service Management Company Manager Recruitment (Full Outlying Areas) (a,f)	SFA Director Recruitment Advance Letter/Email	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
			Study Objectives and Overview	1	1	1	1	0.0334	0.03	0	1	0	0.0223	0.00	0.03
			Recruiting Call Script	1	1	1	1	0.5000	0.50	0	1	0	0.0668	0.00	0.50

Burden Table

					Responsive					Non-Responsive					
Respondent Category	**Type of respondents**	**Instruments**	**Document**	**Sample Size**	**Number of respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Number of Non-respon-dents**	**Frequency of response**	**Total Annual responses**	**Hours per response**	**Annual burden (hours)**	**Grand Total Annual Burden Estimate (hours)**
			Pre-Target Week Reminder Email	1	1	1	1	0.0501	0.05	0	1	0	0.0223	0.00	0.05
		Food Service Management Company Manager Cost Interview (Full Outlying Areas)	SFA On-Site Cost Interview with Reference Guide (i)	1	1	1	1	3.0835	3.08	0	1	0	0.0668	0.00	3.08
			Food Cost Worksheet	1	1	1	1	0.1670	0.17	0	1	0	0.0668	0.00	0.17
		Food Service Management Company Manager Follow-up Web Survey (Full Outlying Areas)	SFA Follow-Up Web Survey and Interview Planning Email	1	1	1	1	0.0501	0.05	0	1	0	0.0223	0.00	0.05
			SFA Follow-Up Web Survey (c)	1	1	1	1	0.1169	0.12	0	1	0	0.0223	0.00	0.12
		Food Service Management Company Manager Follow-up Cost Interview (Full Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide	1	1	1	1	2.0000	2.00	0	1	0	0.0668	0.00	2.00
	FSMC Regional Operations Managers (Full Outlying Managers) (f)	Food Service Management Company Regional Operations Manager Menu Survey (Full Outlying Areas) (a)	FOA Menu Survey (c) (i)	4	4	1	4	9.0000	36.00	0	1	0	0.0668	0.00	36.00
		Food Service Management Company Regional Operations Manager Cost Interview (Full Outlying Areas)	SNM Cost Interview with Reference Guide (c)	4	4	1	4	1.5000	6.00	0	1	0	0.0668	0.00	6.00
	Subtotal Businesses			66	66	3.95	261	0.2659	69.40	0	0.00	0	0.0000	0.00	69.40
	Parents/Guardians (Group 2)	Parents/Guardians Recruitment (Group 2a, 2b) (a)(b)(g)	School Endorsement Letter	10,940	5,470	1	5,470	0.0501	274.05	5,470	1	5,470	0.0223	121.98	396.03
			Parent (Household) Advance Letter	10,940	5,470	1	5,470	0.0835	456.75	5,470	1	5,470	0.0223	121.98	578.73
			Household Brochure	10,940	5,470	1	5,470	0.1336	730.79	5,470	1	5,470	0.0223	121.98	852.77
			Parent Passive Consent Response Form	9,846	492	1	492	0.1002	49.33	9,354	1	9,354	0.0223	208.59	257.92
			Parent Active Consent Response Form	1,094	547	1	547	0.1002	54.81	547	1	547	0.0223	12.20	67.01
		Parents/Guardians Parent Interview (Group 2a, 2b)	Parent Interview Texts and Emails	5,470	2,897	3	8,691	0.0167	145.14	2,573	3	7,719	0.0223	172.13	317.27
			Parent Interview (Group 2a) (c)(h) (i)	3,870	2,177	1	2,177	0.4175	908.90	1,693	1	1,693	0.0223	37.75	946.65

Burden Table

					Responsive					Non-Responsive					
Respondent Category	Type of respondents	Instruments	Document	Sample Size	Number of respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Number of Non-respon-dents	Frequency of response	Total Annual responses	Hours per response	Annual burden (hours)	Grand Total Annual Burden Estimate (hours)
			Parent Interview (Group 2b) (c)(h) (i)	1,600	720	1	720	0.1700	122.40	880	1	880	0.0223	19.62	142.02
		Parents/Guardians Dietary Recall (Group 2a)	Dietary Recall Texts and Emails	2,177	1,415	2	2,830	0.0167	47.26	762	2	1,524	0.0223	33.99	81.25
			Food Diary, Day 1/Day 2	2,177	1,415	1	1,415	0.1670	236.31	762	1	762	0.0223	16.99	253.30
			Student AMPM (24-Hour Dietary Recall), Day 1 (c)	2,177	1,415	1	1415	0.2500	353.75	762	1	762	0.0223	16.99	370.74
			Student AMPM (24-Hour Dietary Recall), Day 2 (c)	732	366	1	366	0.7500	274.50	366	1	366	0.0223	8.16	282.66
	Subtotal of Parents/Guardians			10,940	5,470	6.41	35,063	0.1042	3,653.98	5,470	7.32	40,017	0.0223	892.37	4,546.35
	Students (Group 2a, 2b)	Students Recruitment (Group 2a, 2b) (a)	Study Assent Form	9,116	5,470	1	5,470	0.0501	274.05	3,646	1	3,646	0.0223	81.31	355.35
			Student Interview Reminder Flyer	9,116	5,470	1	5,470	0.0167	91.35	3,646	1	3,646	0.0223	81.31	172.65
	Students (Group 2a)	Student Interview and Day 1 Dietary Recall (Group 2a) (b)	Student Interview-SNMCS (c) (i)	6,449	3,870	1	3,870	0.2004	775.55	2,579	1	2,579	0.0668	172.28	947.83
			AMPM (24-Hour Dietary Recall) (c)	6,449	3,870	1	3,870	0.8016	3102.19	2,579	1	2,579	0.2839	732.18	3834.37
		Students Day 2 Dietary Recall (Group 2a)	Dietary Recall Texts and Emails, Day 2	1,693	574	2	1,148	0.0167	19.17	1,119	2	2,238	0.0223	49.91	69.08
			AMPM (24-Hour Dietary Recall), Day 2 (c)	574	287	1	287	0.7500	215.25	287	1	287	0.0223	6.40	221.65
	Students (Group 2b)	Student Interview (Group 2b) (b)	Student Interview- FFVP (c) (i)	2,667	1,600	1	1,600	0.2004	320.64	1,067	1	1,067	0.0668	71.28	391.92
			AMPM (In-school Intake Dietary Recall) (c)	2,667	1,600	1	1,600	0.3000	480.00	1,067	1	1,067	0.2839	302.92	782.92
	Subtotal of Students			9,116	5,470	4.26	23,315	0.2264	5,278.20	3,646	4.69	17,109	0.0875	1,497.57	6,775.77
	Subtotal Individuals			20,056	10,940	5.34	58,378	0.1530	8,932.17	9,116	6.27	57,126	0.0418	2,389.94	11,322.12
"26,547"	16,537	6.26	103,547	0.3354	34,727.78	10,010	6.48	64,837	0.0406	2,631.77	37,359.55				

Notes: "State" includes both States and Territories.

(a) The estimated number of unique respondents and non respondents who will be contacted for notification, recruiting, and data collection purposes.

(b) The primary data collection activity associated with parent/guardian recruitment is the "Student Interview, and therefore the total number of respondents to "Parents/Guardians Recruitment" equals the number of respondents to "Student Interview."

(c) The estimated number of responses collected electronically via web, CAPI, CATI, or submission of an electronic spreadsheet.

(d) For the full data collection in outlying areas, the State Agency Indirect Cost Survey will be fielded to the State Education Agency Finance Officer in Alaska.

(e) The On-Site Self-Serve/Made-to-Order Bar Form, Observation Guide, Point-of-Sale Form, and Plate Waste Observation Booklet are all completed on-site by contractor staff, but require SNM assistance.

(f) An FSMC operates the school meals program in the majority of Guam's schools. Data will be collected from one central and four regional FSMC managers to help estimate the cost of producing school meals excluding the FSMC operating profits. We assume that one FSMC operates in several SFAs in Alaska.

(g) The estimated number of parents/guardians who are non respondents to the study consent form assumes that 10 percent of Group 2 SFAs will require active consent.

(h) The estimated time to complete the Parent Interview is an average of the amount of time expected to complete by web, CATI, or CAPI. We estimate 30% of the responses are completed by web (estimated burden of 0.3 hours) and 70% of the responses are completed by CATI or CAPI (estimated burden of 0.47 hours).

(i) Respondents are those who complete the primary data collection activity for the respondent group. The rows showing the number of unique respondents expected to provide data for the study are marked with an (i).

(j) Among the SFAs included in the full data collection for outlying areas, the SNA endorsement applies only to HI and AK and not the SFA in Guam.

(k) SFAs in G2a and G2b will be asked to provide student rosters for selected school; school liaisons will be asked for the rosters if SFAs cannot provice them. We estimate 20% of rosters collected at the SFA-level, and 80% collected at the school-level.

AMPM = Automated Multiple-Pass Method; CAPI = computer-assisted personal interview; CATI = computer-assisted telephone interview; CN = child nutrition; FOA = full outlying areas cost study; FSMC = food service management company; LEA = local educational agency; LOA = limited outlying areas cost study; OA = outlying areas; RO = regional office; SFA = school food authority; SNM = school nutrition manager.

Tameka Owens,

Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2023–27763 Filed 12–18–23; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

Northwest Forest Plan Area Advisory Committee; Notice of Meeting

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Northwest Forest Plan Advisory Committee will hold a public meeting according to the details shown below. The Committee is authorized under the National Forest Management Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the Committee is to provide advice and pragmatic recommendations regarding potential regional scale land management planning approaches and solutions within the Northwest Forest Plan Area within the context of the 2012 planning rule.

DATES: An in-person and virtual meeting will be held on January 30, 2024, 9 a.m.–4 p.m. Pacific standard time (PST), January 31, 2024, 9 a.m.–4 p.m. PST, and February 1, 2024, 9 a.m.–12 p.m. PST.

Written and Oral Comments: Anyone wishing to provide in-person oral comments must pre-register by 11:59 p.m. PST on January 24, 2024. Written public comments will be accepted through 11:59 p.m. PST on January 24, 2024. Comments submitted after this date will be provided by the Forest Service to the Committee, but the Committee may not have adequate time to consider those comments prior to the meeting.

All committee meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting will be held in person at the University of Oregon, 1395 University Street, Eugene, OR 97403. Committee information and meeting details can be found at the following website: *https://www.fs.usda.gov/detail/r6/landmanagement/planning/?cid=fseprd1076013* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *sm.fs.nwfp_faca@usda.gov* or via mail (*i.e.,* postmarked) to Katie Heard, USDA Forest Service, 1220 Southwest 3rd Avenue, Suite G015, Portland, OR 97204. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. PST, January 24, 2024, and speakers can only register for one speaking slot. Requests to pre-register for oral comments must be sent by email to *sm.fs.nwfp_faca@usda.gov* or via mail (*i.e.,* postmarked) to Katie Heard, USDA Forest Service, 1220 Southwest 3rd Avenue, Suite G015, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT: Jennifer Eberlien, Designated Federal Officer (DFO), by phone at 707–562–9000 or email at *Jennifer.Eberlien@usda.gov* or Katie Heard, FACA Coordinator, at *Kathryn.Heard@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review subcommittee considerations regarding initial recommendations for updates to the Northwest Forest Plan;
2. Work to refine recommendations and identify next steps to develop Northwest Forest Plan components; and
3. Schedule the next meeting.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 14 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section or contact USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: December 13, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–27769 Filed 12–18–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket #: RUS–22–TELECOM–0058]

Notice of Funding Opportunity for the Community Connect Grant Program for Fiscal Year 2023

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice, correction, and extension of application window.

SUMMARY: The Rural Utilities Service (RUS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), published a Notice of Funding Opportunity (NOFO) in the **Federal Register** on March 20, 2023, to announce the acceptance of applications under the Community Connect Grant (CCG) program for Fiscal Year 2023. The NOFO also announced the availability of approximately $79 million for FY 2023 that would be made available to eligible applicants to construct broadband networks that provide

service on a community-oriented connectivity basis in rural areas. This correction notice is amending the definition of an Eligible Service Area and announcing an extension of the application window until February 20, 2024. Existing and new applicants should refer to the **SUPPLEMENTARY INFORMATION** section of this notice for additional guidelines on being considered for funding under this opportunity and the public notice requirement that applies.

DATES: The changes in this correction notice are effective December 19, 2023. Completed applications for grants must be submitted electronically by no later than 11:59 a.m. Eastern Time (ET), February 20, 2024.

ADDRESSES: All applications must be submitted electronically at: *https://www.rd.usda.gov/community-connect.* This correction to the funding opportunity will also be posted to *https://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Randall Millhiser at *randall.millhiser@usda.gov,* Deputy Assistant Administrator, Office of Loan Origination and Approval, RUS, U.S. Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 1590, Room 4121–S, Washington, DC 20250–1590, or call (202) 578–6926.

SUPPLEMENTARY INFORMATION:

Authority: The CCG program is authorized under the Rural Electrification Act of 1936 (RE Act) and implemented by 7 CFR part 1739.

Application Submission: Existing applicants that submitted an application under the original application window will need to review their application to determine if the submission remains eligible as a result of the change made to an eligible Proposed Funded Service Area in this notice. If the application is still eligible or is adjusted to become eligible, applicants must resubmit their application under this new window to be considered for funding. New applicants that meet the eligibility requirements of 7 CFR 1739 and the NOFO as amended by this notice may also submit an application for consideration.

Public Notice Requirement: The Public Notice requirement applies to all submitted applications. Once the application window closes, the Agency will publish a public notice of each application in accordance with 7 CFR 1739.15(l).

Corrections

In FR Doc. 2023–05549 of March 30, 2023 (88 FR 16579),

1. Column 3, page 16579, revise the DATE section to read as follows:

DATES: Completed applications for grants must be submitted electronically by no later than 11:59 a.m. Eastern Time (ET), February 20, 2024.

2. Column 3, page 16580, under Section C.3(a), *Other,* revise subparagraph (i) in its entirety and the first sentence of subparagraph (iv) to read as follows:

(i) RUS will validate that broadband service does not exist in areas that applicants describe as having no broadband access or access that is less than 10 Megabits per second (Mbps) downstream plus 1 Mbps upstream.

* * * * *

(iv) Areas receiving, or areas that have received final approval for, other federal funding to construct terrestrial facilities providing at least 10/1 Mbps service in the project Proposed Funded Service Area as of the date of this notice, and which have been reported to the agency, are ineligible. * * *

Andrew Berke,

Administrator, Rural Utilities Service, USDA Rural Development.

[FR Doc. 2023–27813 Filed 12–18–23; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–64–2023]

Foreign-Trade Zone (FTZ) 94, Notification of Proposed Production Activity; PREH INC.; (Automotive Display Assemblies); Laredo, Texas

The City of Laredo, grantee of FTZ 94, submitted a notification of proposed production activity to the FTZ Board (the Board) on behalf of PREH INC., located in Laredo, Texas within FTZ 94. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on December 6, 2023.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished product is automotive display assemblies (duty rate is duty-free).

The proposed foreign-status materials and components include automotive display sub-assemblies, stainless steel screws, and polyethylene foil labels (duty rate ranges from duty-free to 8.5%). The request indicates that certain materials/components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 29, 2024.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: December 13, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–27824 Filed 12–18–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty Administrative Review; 2017–2018; Correction

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

SUMMARY: The U.S. Department of Commerce (Commerce) published a notice in the **Federal Register** on March 16, 2020, in which commerce announced the final results of the 2017–2018 administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip from India. In this notice, the section titled ''Final Results of Review'' did not list both SRF Limited and SRF Limited of India.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of March 16, 2020, in FR Doc. 2020–05311, on page 14884, in the second column, correct the table within the ''Final Results of Review'' section to list both SRF Limited and SRF Limited of India.

Background

On March 16, 2020, Commerce published in the **Federal Register** the final results of the 2017–2018 administrative review of the AD order on polyethylene terephthalate film, sheet, and strip from India.[1] We erroneously omitted SRF Limited from the table where we listed SRF Limited of India.[2] With the publication of this notice, we will assign both SRF Limited and SRF Limited of India the weighted-average dumping margin of 0.00 percent.[3] *See* the updated ''Final Results of Review'' section below.

Final Results of Review

As a result of this review, we determine the following weighted-average dumping margins exist for the period July 1, 2017 through June 30, 2018.

Manufacturer/exporter	Weighted-average margin (percent)
Jindal Poly Films Ltd. (India)	4.45
SRF Limited/SRF Limited of India	0.00
Ester Industries Limited	4.45
Garware Polyester Ltd	4.45
Polyplex Corporation Ltd	4.45
Vacmet India Limited	4.45

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: December 13, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–27841 Filed 12–18–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2017–2018,* 85 FR 14883 (March 16, 2020).

[2] *Id.*

[3] SRF Limited of India and SRF Limited are the same company. *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 48123 (September 12, 2019), and accompanying Preliminary Decision Memorandum at 6.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Pacific Islands Region Vessel and Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 20, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0360 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Walter Ikehara, Fishery Information Specialist, National Marine Fisheries Service (NMFS), Pacific Islands Region, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI, 96818, (808) 725–5175, *walter.ikehara@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) established the Western Pacific Fishery Management Council (Council), to develop fishery ecosystem plans (FEP) for fisheries in the U.S. Exclusive Economic Zone (EEZ) and high seas of the Pacific Islands Region. These plans, when approved by the Secretary of Commerce, are implemented in Federal regulations by NMFS and enforced by NOAA's Office of Law Enforcement (OLE) and the U.S. Coast Guard (USCG), in cooperation with state and territorial agencies. The FEPs and Federal regulations are intended to prevent overfishing and to ensure the long-term productivity and social and economic benefit of the resources.

Regulations at 50 CFR 665.16, 300.35, and 300.217 require that all U.S. vessels with Federal permits that fish for western Pacific fishery management unit species must display identification markings on the vessel. Each Vessel registered for use, with a permit issued under Subparts B through E and Subparts G through I of 50 CFR 665, must have the vessel's official number displayed on both sides of the deckhouse or hull, and on an appropriate weather deck. Regulations at 50 CFR 300.35 require that each vessel fishing under the South Pacific Tuna Treaty, must display its international radio call sign on the hull, the deck, and on the sides of auxiliary equipment, such as skiffs and helicopters. Vessels registered for use with a permit issued under Subpart F of 50 CFR 665 and vessels fishing for highly migratory species in the Western and Central Pacific Fisheries Commission (WCPFC) Convention Area under Subpart O of 50 CFR 300, and in international waters under Subpart R of 50 CFR 300, must comply with the regulations at 50 CFR 300.217 and 50 CFR 300.336 requiring the display of the vessel's international radio call sign on both sides of the deckhouse or hull, and on an appropriate weather deck, unless specifically exempted. In each case, the vessel's identifying numbers must be a specific size and in specified locations. The display of the identifying numbers aids in fishery law enforcement.

The regulations at 50 CFR 665.128, 665.228, 665.428, 665.628, and 665.804 require that certain fishing gear must be marked. In the pelagic longline fisheries, the vessel operator must ensure that the official number of the vessel is affixed to every longline buoy and float. In the coral reef ecosystem fisheries, the vessel number must be affixed to all fish and crab traps. The marking of gear links fishing or other activities to the vessel, aids law enforcement, and helps in determining damage to or loss of gear from the vessel, as well as any civil proceedings.

II. Method of Collection

The vessel owner or crew paints the identification markings on each vessel

and associated equipment and gear. NMFS collects no other information.

III. Data

OMB Control Number: 0648–0360.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations; Individuals or households.

Estimated Number of Respondents: 324.

Estimated Time per Response: 1.25 hours per purse seine vessel and 0.75 hours per other fishery vessel for vessel ID marking. 0.083 hours per gear marking.

Estimated Total Annual Burden Hours: 2,337.

Estimated Total Annual Cost to Public: $89,473.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 665, 50 CFR 300.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this Information Collection Request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–27861 Filed 12–18–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Marine Fisheries Service (NMFS) Observer Programs' Information That Can Be Gathered Only Through Questions

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on August 31, 2023 (88 FR 60184) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: NMFS Observer Programs' Information That Can Be Gathered Only Through Questions.

OMB Control Number: 0648–0593.

Form Number(s): None.

Type of Request: Regular submission. Revision and extension of a current information collection.

Number of Respondents: 2,155.

Average Hours per Response: Northeast Fisheries Observer Program and At-Sea Monitors, 117 minutes; North Pacific Groundfish and Halibut Observer Program and Processing Plants, 56 minutes; Alaska Marine Mammal Observer Program, 15 minutes; West Coast Groundfish Observer Program, 31 minutes; Pacific Islands Region Observer Program, 86 minutes; Southeast Fishery Observer Program, 55 minutes; West Coast Region Observer Program, 62 minutes. Information will be collected for observed fishing trips and deployments to fish processing plants; therefore, there will be multiple responses for some respondents, but counted as one response per trip or plant visit.

Total Annual Burden Hours: 15,728.

Needs and Uses: This is a request for revision and extension of an existing information collection.

The National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) deploys fishery observers on United States (U.S.) commercial fishing vessels and to fish processing plants in order to collect biological and economic data. NMFS has at least one observer program in each of its five Regions. These observer programs provide the most reliable and effective method for obtaining information that is critical for the conservation and management of living marine resources. Observer programs primarily obtain information through direct observations by employees or agents of NMFS; and such observations are not subject to the Paperwork Reduction Act (PRA). However, observer programs also collect the following information that requires clearance under the PRA: (1) Standardized questions of fishing vessel captains/crew or fish processing plant managers/staff, which include gear and performance questions, safety questions, and trip costs, crew size and other economic questions; (2) questions asked by observer program staff/contractors to plan observer deployments; (3) forms that are completed by observers and that fishing vessel captains are asked to review and sign; (4) questionnaires to evaluate observer performance; and (5) a form to certify that a fisherman is the permit holder when requesting observer data from the observer on the vessel.

The information collected will be used to: (1) Monitor catch and bycatch in federally managed commercial fisheries; (2) understand the population status and trends of fish stocks and protected species, as well as the interactions between them; (3) determine the quantity and distribution of net benefits derived from living marine resources; (4) predict the biological, ecological, and economic impacts of existing management action and proposed management options; and (5) ensure that the observer programs can safely and efficiently collect the information required for the previous four uses. In particular, these biological and economic data collection programs contribute to legally mandated analyses required under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Endangered Species Act

(ESA), the Marine Mammal Protection Act (MMPA), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), as well as a variety of state statutes. The confidentiality of the data will be protected as required by the MSA, Section 402(b).

This collection will be revised as follows. First is the expansion of observers to include an additional fishery. The Southeast region will begin sending observers out on Southeast reef fish fishery trips and thus needs to add this fishery to this collection. Second, NOAA is combining the Southeast observer efforts into one program. The third change is the West Coast Groundfish Observer Program (WCGOP) would like to start collecting the names of crew members within their observer logbooks. The data will be recorded on paper, scanned in, and stored according to vessel name. This information will only be accessed if there is an enforcement issue. The final change is also within the West Coast Groundfish Observer Program. They have introduced a new phone app that captains are using to declare upcoming fishing trips and NMFS is using to let them know if they have been selected for observer coverage. Other observer programs are also working on converting to smart phone apps, but they have not yet been implemented.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: The *Magnuson-Stevens Fishery Conservation and Management Act* (MSA), the *Endangered Species Act* (ESA), Executive Order 12866 (E.O. 12866), and the *Marine Mammal Protection Act* (MMPA).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0593.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–27834 Filed 12–18–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; International Design Applications (Hague Agreement)

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

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0075 International Design Applications (Hague Agreement). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before February 20, 2024.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email: InformationCollection@uspto.gov.* Include ''0651–0075 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Rafael Bacares, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3276; or by email at *Rafael.Bacares@uspto.gov* with ''0651–0075 comment'' in the subject line. Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The Patent Law Treaties Implementation Act of 2012 [1] (PLTIA) amends the patent laws to implement the provisions of the Geneva Act of the Hague Agreement Concerning International Registration of Industrial Designs (hereinafter ''Hague Agreement'') in title 1, and the Patent Law Treaty [2] (PLT) in title 2. The Hague Agreement is an international agreement that enables an applicant to file a single international design application which may have the effect of an application for protection for the design(s) in countries and/or intergovernmental organizations that are Parties to the Hague Agreement (the ''Contracting Parties'') designated in the applications. The United States is a Contracting Party to the Hague Agreement, which took effect with respect to the United States on May 13, 2015. The Hague Agreement is administrated by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) located in Geneva, Switzerland.

Under the Hague Agreement, U.S. applicants can file international design applications in English ''indirectly'' through the United States Patent and Trademark Office (USPTO), which will forward the applications to the IB or ''directly'' with the IB. An international design application is subject to the payment of three types of fees: (1) a basic fee, (2) a publication fee, and (3) in respect of each Contracting Party where protection is sought, either in a standard or an individual designation fee. All applications are subject to a three-level structure of standard fees, which reflects the level of examination carried out by the Office of a Contracting Party. Also, an additional fee is required where the application contains a description that exceeds 100 words. In addition, a transmittal fee is required for international design applications filed through an office of indirect filing. Thus, international design applications filed through the USPTO as an Office of indirect filing are subject to payment of a transmittal fee for processing and forwarding the international design applications to the IB. The fees required by the IB may be paid either directly to the IB or through the USPTO as an office of indirect filing

[1] *https://www.congress.gov/112/plaws/publ211/PLAW-112publ211.pdf.*

[2] *https://wipolex.wipo.int/en/text/288773.*

in the amounts specified on the World Intellectual Property Organization website. If applicants want to pay the required fees through USPTO as an office of indirect filing, the fees must be paid no later than the date of payment of the transmittal fee. The fees will then be forwarded to the IB. The industrial design or designs will be eligible for protection in all the Contracting Parties designated by applicants.

The IB ascertains whether the international design application complies with formal requirements, registers the international design to the international register, and publishes the international registration in the International Designs Bulletin. The international registration contains all of the data of the international application, any reproduction of the international design, date of the international registration, number of the international registration, and the relevant class of the International Classification.

The IB will provide a copy of the publication of the international registration to each Contracting party designated by the application. A designated Contracting Party may perform a substantive examination of the design application. The USPTO will perform a substantive examination for patentability of the international design application, as in the case of regular U.S. design applications.

This information collection covers all the necessary information required for a international design application that is filed through the USPTO as an Office of indirect filing and those filed directly through the IB. The information in this collection is used to register a design patent under the provisions of the Hague Agreement. The majority of the items are WIPO forms managed by the IB, but this information collection also includes two forms maintained by the USPTO.

II. Method of Collection

The items in this information collection can either be submitted electronically through the USPTO patents electronic filing system or mailed to the USPTO.

III. Data

OMB Control Number: 0651–0075.

Forms: WIPO DM = WIPO Dessins et Modeles (design representations); PTOL = Patent Trademark Office Legal

- PTO–1595: (Recordation Form Cover Sheet)
- PTOL–85 Part B (Hague): Fee(s) Transmittal
- WIPO DM/1 (E): Application for International Registration
- WIPO DM/1/I (E): (Annex I: Oath or Declaration of the Creator under Rule 8(1)(a)(ii) of the Common Regulations)
- WIPO DM/1/III (E): (Annex III: Information On Eligibility For Protection under Rule 7(5)(g) and Section 408(d) of the Administrative Instructions)
- WIPO DM/1/IV (E): (Annex IV: Reduction of United States Individual Designation Fee under Section 408(b) of the Administrative Instructions)
- WIPO DM/1/V (E): (Annex V: Supporting Document(s) Concerning Priority Claim under Article 4 of the Paris Convention—Korean Intellectual Property Office (KIPO))
- WIPO DM/7 (E): Appointment of a Representative

Two forms listed above have received OMB approval and clearance through other USPTO information collections. While these forms are used by this information collection, they are routinely approved as part of the other information collections. These forms are:

- PTO–1595—approved through USPTO information collection 0651–0027 (Recording Assignments).
- PTOL–85 Part B (Hague)—approved through USPTO information collection 0651–0033 (Post Allowance and Refiling).

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Estimated Number of Annual Respondents: 1,231 respondents.

Estimated Number of Annual Responses: 1,231 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 15 minutes (0.25 hours) and 6 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 2,052 hours.

Estimated Total Annual Respondent Hourly Cost Burden: $917,244.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [3] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Application for International Registration (WIPO DM/1 (E) and PTO–1595).	155	1	155	6	930	$447	$415,710
2	Claim and Reproductions (Drawings).	155	1	155	4	620	447	277,140
3	Transmittal Letter	5	1	5	2	10	447	4,470
4	Appointment of a Representative (WIPO DM/7) filed indirectly through the USPTO.	62	1	62	0.25 (15 minutes).	16	447	7,152
5	Petition to Excuse a Failure to Comply with a Time Limit.	3	1	3	4	12	447	5,364
6	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16.	3	1	3	4	12	447	5,364
7	Petition to Review a Filing Date.	3	1	3	4	12	447	5,364
8	Fee Authorization	11	1	11	0.25 (15 minutes).	3	447	1,341

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS—Continued

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [3] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
9	Petitions to the Commissioner.	5	1	5	4	20	447	8,940
10	Oath or Declaration of the Creator under Rule 8(1)(a)(ii) of the Common Regulations (WIPO DM/1/I (E)) (Declaration of Inventorship for the Designation of the United States of America) filed indirectly through the USPTO.	31	1	31	0.50 (30 minutes).	16	447	7,152
11	Oath or Declaration of the Creator under Rule 8(1)(a)(ii) of the Common Regulations (WIPO DM/1/I (E)) (Substitute Statement in Lieu of a Declaration of Inventorship for the Designating the United States of America) filed indirectly through the USPTO.	2	1	2	0.50 (30 minutes).	1	447	447
12	Information On Eligibility For Protection (WIPO DM/1/III (E)) filed indirectly through the USPTO.	3	1	3	1	3	447	1,341
13	Reduction of United States Individual Designation Fee under Section 408(b) of the Administrative Instructions (WIPO DM/1/IV (E)) filed indirectly through the USPTO.	8	1	8	0.50 (30 minutes).	4	447	1,788
14	Supporting Document(s) Concerning Priority Claim under Article 4 of the Paris Convention—Korean Intellectual Property Office (KIPO) (WIPO DM/1/V (E)) filed indirectly through the USPTO.	5	1	5	0.50 (30 minutes).	3	447	1,341
15	Fee(s) Transmittal to USPTO for an International Design Application (PTOL–85 Part B (Hague)).	780	1	780	0.50 (30 minutes).	390	447	174,330
Totals		1,231		1,231		2,052		917,244

Estimated Total Annual Respondent Non-hourly Cost Burden: $3,708,240.

There are no capital start-up, maintenance, or record-keeping costs associated with this information collection. However, the USPTO estimates that the total annual (non-hour) cost burden for this collection is $3,708,240, which includes $3,398,121 in filing fees, $310,000 in drawing costs, and $119 in postage costs.

Filing Fees

The filing fees associated with this information collection are listed in the table below.

[3] 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–41. The USPTO uses the average billing rate for intellectual property work in all firms which is $447 per hour (*https://www.aipla.org/home/news-publications/economic-survey*).

TABLE 2—FILING FEES FOR PRIVATE SECTOR RESPONDENTS

Item No.	Fee code	Item	Estimated annual responses (a)	Filing fee ($) (b)	Total non-hour cost burden (yr) (a) × (b) = (c)
1	WIPO	Application for International Registration (electronic)—Average Fee per registration to WIPO (USPTO collects and transmits it to WIPO).	157	$2,131	$334,567
1	WIPO	Application for International Registration (electronic)—Designation Fee (first part) for the U.S. (collecting for WIPO) (undiscounted entity).	10	960	9,600
1	WIPO	Application for International Registration (electronic)—Designation Fee (first part) for the U.S. (collecting for WIPO) (small entity).	11	480	5,280
1	WIPO	Application for International Registration (electronic)—Designation Fee (first part) for the U.S. (collecting for WIPO) (micro entity).	6	240	1,440
1	WIPO	Application for International Registration submitted to WIPO—Designation Fee (first part) for the U.S. (Transmitting to the USPTO by WIPO) (undiscounted entity).	1,651	960	1,584,960
1	WIPO	Application for International Registration submitted to WIPO—Designation Fee (first part) for the U.S. (Transmitting to the USPTO by WIPO) (small entity).	527	480	252,960
1	WIPO	Application for International Registration submitted to WIPO—Designation Fee (first part) for the U.S. (Transmitting to the USPTO by WIPO) (micro entity).	138	240	33,120
1	1781	Application for International Registration (electronic)—Transmittal Fee (set by and collected by USPTO) (undiscounted entity).	62	120	7,440
1	2781	Application for International Registration (electronic)—Transmittal Fee (set by and collected by USPTO) (small entity).	85	48	4,080
1	3781	Application for International Registration (electronic)—Transmittal Fee (set by and collected by USPTO) (micro entity).	18	24	432
5	1784	Petition to Excuse a Failure to Comply with a Time Limit (undiscounted entity)	1	2,100	2,100
5	2784	Petition to Excuse a Failure to Comply with a Time Limit (small entity)	1	840	840
5	3784	Petition to Excuse a Failure to Comply with a Time Limit (micro entity)	1	420	420
6	1783	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16 (undiscounted entity).	1	180	180
6	2783	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16 (small entity).	1	72	72
6	3783	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16 (micro entity).	1	36	36
7	1462	Petition to Review a Filing Date (undiscounted entity)	1	420	420
7	2462	Petition to Review a Filing Date (small entity)	1	168	168
7	3462	Petition to Review a Filing Date (micro entity)	1	84	84
9	1462	Petitions to Commissioner (undiscounted entity)	1	420	420
9	2462	Petitions to Commissioner (small entity)	2	168	336
9	3462	Petitions to Commissioner (micro entity)	1	84	84
15	1509	Issue Fee Transmittal to USPTO for an International Design Application (undiscounted entity).	972	740	719,280
15	2509	Issue Fee Transmittal to USPTO for an International Design Application (small entity).	247	296	73,112
15	3509	Issue Fee Transmittal to USPTO for an International Design Application (micro entity).	30	148	4,440
15	WIPO	Application for International Registration submitted to WIPO—Issue Fee (Second part) for the U.S. (Transmitting to the USPTO by WIPO) (undiscounted entity).	420	700	294,000
15	WIPO	Application for International Registration submitted to WIPO—Issue Fee (Second part) for the U.S. (Transmitting to the USPTO by WIPO) (small entity).	155	350	54,250
15	WIPO	Application for International Registration submitted to WIPO—Issue Fee (Second part) for the U.S. (Transmitting to the USPTO by WIPO) (micro-entity).	80	175	14,000
Totals			4,582		$3,398,121

Drawing Costs

The USPTO estimates that the costs to produce design drawings can range from $50 to $350 per sheet. Taking the average of this range, the USPTO estimates that it can cost $200 per sheet to produce design drawings. On average, 10 sheets of drawings are submitted for an application resulting in an average cost of $2,000 to produce the design drawings. The USPTO estimates that 155 respondents will file international design applications. Overall, the costs associated with submitting these drawings are estimated to be $310,000.

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 1,231 items in this information collection will be submitted by mail, resulting in 12 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat rate envelope, will be $9.95. Therefore, the USPTO estimates the total mailing costs for this information collection at $119.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the 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.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2023–27844 Filed 12–18–23; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting for the Pier Wind Terminal Development Project at the Port of Long Beach, City of Long Beach and County of Los Angeles, California (SPL–2023–00720)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The purpose of this notice is to initiate the scoping process for preparation of a joint Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) for the Port of Long Beach (Port) Pier Wind Terminal Development Project.

DATES: Submit comments concerning this notice on or before February 6, 2024. An in-person public scoping meeting will be held on January 10, 2024, starting at 6 p.m. PST. An in-person open house will be held from 5–6 p.m. PST.

ADDRESSES: The public scoping meeting will be held in the Bob Foster Civic Chambers, adjacent to the Port of Long Beach Administration Building, in the Long Beach Civic Center at 411 W. Ocean Blvd., Long Beach, California 90802. The open house will be held at the Port of Long Beach Administration Building, 415 W. Ocean Blvd., Long Beach, California 90802. Email written comments concerning this notice to: Lisa Mangione, U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, *lisa.mangione@usace.army.mil*. Comment emails should include the commenter's email, the project title, and the USACE file number (SPL–2023–00720) in the subject line.

FOR FURTHER INFORMATION CONTACT: Lisa Mangione, U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, (805) 585–2150, *lisa.mangione@usace.army.mil*.

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* the USACE is requiring the preparation of an EIS prior to making a permit decision for the proposed Project. The USACE may ultimately make a determination to permit or deny the proposed Project or a modified version of the proposed Project. The primary Federal concerns are dredging, dredged material disposal, addition of permanent structures in and over navigable waters of the U.S. and transport of dredged material for the purpose of ocean disposal.

Pursuant to the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code section 21000 *et seq.,* the City of Long Beach Harbor Department (Port of Long Beach or Port) will serve as the CEQA Lead Agency in preparing the EIR for its consideration of development approvals within its jurisdiction. The USACE and Port have agreed to jointly prepare a Draft EIS/EIR to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address the Federal, State, and local requirements and environmental issues concerning the proposed activities and permit approvals.

1. Project Site and Background Information. The proposed Project site is located in the Southwest Long Beach Harbor Planning District (District 6) in the Outer Harbor, south of the Navy Mole and West Basin, east of the Port of Los Angeles Pier 400, north of the Federal breakwater, and west of the Main Channel within the Port of Long Beach. The site is located in the City of Long Beach and County of Los Angeles and adjacent to the communities of San Pedro and Wilmington. The purpose of the proposed Project is to develop a terminal at the Port for receiving, staging, and storing wind turbine generator (WTG) components (tower sections, nacelles, and blades), and foundation sub-assemblies; performing final assembly of floating foundations, and integrating WTG components with the floating foundation to create floating offshore wind (OSW) turbine systems (proposed Project). The proposed Project would enable the State of California and Federal Government to address the global climate crisis and decarbonization of energy resources by supporting the establishment of wind farms off the west coast shores of the United States.

2. Proposed Project. The Port, acting by and through its Board of Harbor Commissioners, proposes to construct a 400-acre terminal and 30-acre transportation corridor for receiving, staging, and storing wind turbine generator (WTG) components, and foundation sub-assemblies, performing final assembly of floating foundations, and integrating WTG components with the floating foundation to create floating offshore wind (OSW) turbine systems. The terminal and transportation corridor would be located in the Southwest Harbor Planning District (District 6) at the Port of Long Beach just south of the Navy Mole, east of Port of Los Angeles Pier 400, north of the Federal breakwater, and west of the Main Channel. The proposed Project would construct new land at the Port that would best meet the land requirements for waterfront facilities necessary for efficient staging, integration, floating foundation assembly, and maintenance of large floating OSW turbine systems as specified in the California State Lands Commission 2023 *AB 525 Port Readiness Plan*. In-water construction activities would include approximately 50 million cubic yards (CY) of dredging (for fill material and surcharge), construction of rock revetment dikes, and construction of a terminal wharf, sinking basin, wet storage areas, and concrete piers adjacent to the transportation corridor. Onshore construction would include grading and compaction, surfacing, transportation corridor improvements, and installation of utilities and signage. It is estimated that construction activities would start in 2027 and last a total of 9 years, construction completed in phases and operations starting in 2031. Overall construction is expected to be completed in 2035.

3. Proposed Federal Action. Because construction of the proposed Project would result in a discharge of dredged and/or fill material into waters of the United States, would place structures in navigable waters of the United States, or consist of work in or affecting navigable waters of the United States, and would transport dredged or fill material by

vessel or other vehicle for the purpose of dumping the material into ocean waters, USACE authorization is required pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344; 33 CFR parts 323 and 330), section 10 of the Rivers and Harbors Act (33 U.S.C. 403), and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). Review of and decision on, the permit applications by the USACE constitutes the proposed Federal action (Proposed Federal Action).

4. Issues. Potentially significant issues associated with the proposed Project may include: aesthetics/visual impacts, air quality and greenhouse gas emissions, biological resource impacts, cultural and tribal cultural resources, energy, geologic impacts related to seismicity, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, public services, recreation, transportation, utilities and service systems, environmental justice, socioeconomics, and cumulative impacts from past, present, and reasonably foreseeable future projects.

5. Alternatives. Multiple alternatives to the proposed Project are under consideration, including: No Federal Action (NEPA)/No Project (CEQA), 400-acre terminal with a standard construction schedule, smaller terminal, larger terminal, alternate locations in California, single-lift dike only, and utilization of Pier S. Additional alternatives that may be developed during scoping will also be considered in the Draft EIS/EIR.

6. Scoping Process. The USACE and Port will jointly conduct two public scoping meetings to receive public comment regarding the appropriate scope and content of the Draft EIS/EIR. Participation by Federal, State, and local agencies, tribal nations, and other interested organizations and persons is encouraged. The scoping meeting will be recorded and posted on the Port's website (*https://www.polb.com/ceqa*). The scoping meeting will be conducted in English with interpretation for other languages provided upon request. If you require interpretation services to participate in the scoping meeting, please contact the Port of Long Beach Environmental Planning Division at (562) 283–7100 or via email at *ceqa@polb.com* at least three full working days (72 hours) prior to the public scoping meeting date to ensure that reasonable arrangements can be made to provide interpretation services. Americans with Disabilities Act: The Port of Long Beach provides reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If special accommodations are needed to participate in the public scoping meeting, please contact the Port of Long Beach Environmental Planning Division at (562) 283–7100 or via email at *ceqa@polb.com* at least three full working days (72 hours) prior to the scoping meeting date to ensure reasonable arrangements can be made.

7. Electronic Access and Filing Addresses. Comments may be submitted by electronic mail (email) to: *lisa.mangione@usace.army.mil*. Electronic mail comments should include the commenter's physical or electronic mailing address, the project title, and the Corps file number (SPL–2023–00720).

8. Availability for Public Comment. The Draft EIS/EIR is expected to be available for public review and comment in early 2025, and a public meeting will be held after its publication.

David R. Hibner,

Programs Director.

[FR Doc. 2023–27867 Filed 12–18–23; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0169]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Comprehensive Literacy State Development (CLSD) Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before January 18, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Michael Berry, (202) 453–7088.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Comprehensive Literacy State Development (CLSD) Annual Performance Report.

OMB Control Number: 1810–NEW.

Type of Review: New ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 58.

Total Estimated Number of Annual Burden Hours: 638.

Abstract: The Comprehensive Literacy State Development (CLSD) program is authorized under the Elementary and Secondary Education Act of 1965, as amended (ESEA), Sections 2222–2225. The CLSD program awards competitive grants to advance literacy skills—using evidence-based practices, activities, and interventions, including preliteracy skills, reading, and writing—for children from birth through grade 12, with an emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities. Eligible entities include the state education agencies (SEAs) of the 50 states, the District of Columbia, and Puerto Rico. Additionally, directed awards are made to four (4) Outlying Areas: American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands. A portion of funds is also awarded directly to the Bureau of Indian Education.

CLSD requires that at least 95% of funds awarded to SEAs be distributed to local education agencies through a subgrant award process. However, the current OMB-approved ED generic grant performance report does not include fields to capture program (subgrantee) demographic data or performance measures to ensure grantees are meeting statutory and regulatory requirements and making progress toward meeting the goals and objectives of their approved projects. The proposed performance report metrics reflect the need to collect pertinent grantee- and subgrantee-level data that could be used to guide future program policy and practice and respond to stakeholder, congressional, and agency inquiries. Thus, the CLSD program staff would better understand whom they serve, programmatic needs, strategies to meet those needs, and how collecting program-level data would benefit the students and support their learning. The new CLSD performance report metrics would (a) collect programmatic data that demonstrate aggregate program-level impact; (b) provide subgrantees' aggregated data, such as the number of students and professionals served, how funds have been used (*e.g.,* professional learning, curricular materials), and staffing; and (c) provide the CLSD program staff the data to report the performance and outcomes of the CLSD program, at both the grantee and the subgrantee levels. These new measures also would help to add specificity to ED's monitoring efforts.

Dated: December 13, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–27817 Filed 12–18–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Privacy Act of 1974; System of Records

AGENCY: U.S. Department of Energy.

ACTION: Notice of a modified system of records.

SUMMARY: As required by the Privacy Act of 1974 and the Office of Management and Budget (OMB) Circulars A–108 and A–130, the Department of Energy (DOE or the Department) is publishing notice of a modification to an existing Privacy Act System of Records. DOE proposes to amend System of Records DOE–1 Grievance Records. This System of Records Notice (SORN) is being modified to align with new formatting requirements, published by the Office of Management and Budget, and to ensure appropriate Privacy Act coverage of business processes and Privacy Act information. While there are no substantive changes to the ''Categories of Individuals'' or ''Categories of Records'' sections covered by this SORN, substantive changes have been made to the ''System Locations,'' ''Routine Uses,'' and ''Administrative, Technical and Physical Safeguards'' sections to provide greater transparency. Changes to ''Routine Uses'' include new provisions related to responding to breaches of information held under a Privacy Act SORN as required by OMB's Memorandum M–17–12, ''Preparing for and Responding to a Breach of Personally Identifiable Information'' (January 3, 2017). Language throughout the SORN has been updated to align with applicable Federal privacy laws, policies, procedures, and best practices.

DATES: This modified SORN will become applicable following the end of the public comment period on January 18, 2024 unless comments are received that result in a contrary determination.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503 and to Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm 8H–085, Washington, DC 20585 or by facsimile at (202) 586–8151 or by email at *privacy@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm 8H–085, Washington, DC 20585 or by facsimile at (202) 586–8151 or by email at *privacy@hq.doe.gov,* telephone: (240) 686–9485.

SUPPLEMENTARY INFORMATION: On January 9, 2009, DOE published a Compilation of its Privacy Act Systems of Records, which included System of Records DOE–1 Grievance Records. This notice proposes amendments to the System Locations section of that System of Records by removing System Locations where DOE–1 is no longer applicable. These locations are as follows: Alaska Power Administration, Environmental Consolidated Business Center, Southeastern Power Administration, the Office of Repository Development, and all National Nuclear Security Administration (NNSA) sites. Addresses for the National Energy Technology Laboratory's (NETL) sites in Pittsburgh, Morgantown, and Albany have been updated. Addresses for NETL's sites in Oklahoma and Alaska have been removed as they no longer require coverage. Finally, the Office of River Protection, Richland Operations Office, and Southwestern Power Administration addresses have been updated. The system manager's office title has been changed to ''Office of Policy, Labor and Employee Relations.'' The data element ''Social Security numbers'' has been removed from the ''Categories of Records in the System'' and ''employee identification numbers'' has been added. In the ''Routine Uses'' section, this modified notice deletes a previous routine use concerning efforts responding to a suspected or confirmed loss of confidentiality of information as it appears in DOE's compilation of its Privacy Act Systems of Records (January 9, 2009) and replaces it with one to assist DOE with responding to a suspected or confirmed breach of its records of Personally Identifiable Information (PII), modeled with language from OMB's Memorandum M–17–12, ''Preparing for and Responding to a Breach of Personally Identifiable Information'' (January 3, 2017). Further, this notice adds one new routine use to ensure that DOE may assist another agency or entity in responding to the other agency's or entity's confirmed or suspected breach of PII, as appropriate, as aligned with OMB's Memorandum M–17–12. An administrative change required by the Freedom of Information Act (FOIA) Improvement Act of 2016 extends the length of time a requestor is permitted to file an appeal under the Privacy Act from 30 to 90 days. Both the ''System Locations'' and ''Administrative, Technical and Physical Safeguards'' sections have been modified to reflect the Department's usage of cloud-based services for records storage. Language throughout the SORN has been updated to align with applicable Federal privacy laws, policies, procedures, and best practices.

SYSTEM NAME AND NUMBER:

DOE–1 Grievance Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Systems leveraging this SORN may exist in multiple locations. All systems storing records in a cloud-based server are required to use government-approved cloud services and follow National Institute of Standards and Technology (NIST) security and privacy standards for access and data retention.

Records maintained in a government-approved cloud server are accessed through secure data centers in the continental United States.

U.S. Department of Energy, Headquarters, 1000 Independence Avenue SW, Washington, DC 20585.

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208.

U.S. Department of Energy, Office of Science, Chicago Office, Consolidated Service Center, 9800 South Cass Avenue, Lemont, IL 60439.

U.S. Department of Energy, Office of Science, Consolidated Service Center, P.O. Box 2001, Oak Ridge, TN 37831.

U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, Idaho Falls, ID 83415.

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), 626 Cochran Mill Road, Pittsburgh, PA 15236.

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), 3610 Collins Ferry Road, Morgantown, WV 26505.

U.S. Department of Energy, National Energy Technology Laboratory (Albany), 1450 Queen Avenue SW, Albany, OR 97321.

U.S. Department of Energy, Office of River Protection, P.O. Box 450, Richland, WA 99352.

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352.

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801.

U.S. Department of Energy, Southwestern Power Administration, One West Third Street, Suite 1500, Tulsa, OK 74103.

U.S. Department of Energy, Strategic Petroleum Reserve Project Management Office, 900 Commerce Road East, New Orleans, LA 70123.

U.S. Department of Energy, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228–8213.

SYSTEM MANAGER(S):

Office of Policy, Labor and Employee Relations, Office of the Chief Human Capital Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* 5 U.S.C. 7121, and 5 CFR part 771.

PURPOSE(S) OF THE SYSTEM:

The records in this system are used by management officials in the resolution of employee concerns about conditions of employment, working conditions, administration of the agency's grievance process, labor-management relations, work processes, or other similar issues.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOE employees including NNSA employees, consultants, board members, and applicants, related to grievances filed in accordance with the Department's grievance process or pursuant to a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grievances; names; unique identifiers for Department employees and applicants for employment with the Department (*e.g.,* DOE OneID, employee number, and any other government identifier excluding Social Security number), work and home address; work and home telephone numbers; applicable demographic information; job titles, series, and grade levels; organization; supervisors' names and telephone numbers; copies of employee records, such as personnel actions, electronic official personnel files, performance appraisals, pay and leave records, and security clearance documents; management reports; witness statements; affidavits; checklists; notes; and relevant correspondence.

RECORD SOURCE CATEGORIES:

The grievant or complainant, applicable management officials, program office records, congressional offices, witnesses, and fact finders' notes and reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. chapter 71.

2. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's signed request for assistance.

3. A record from this system may be disclosed as a routine use to an appropriate Federal, State, or local agency that is authorized to review and resolve the issue(s) raised in the grievance.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) persons representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witnesses, potential witnesses, or their representatives and assistants; and any other person who possess information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matters who possess information pertaining to the matter when it is relevant and necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

6. A record from this system may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the System of Records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOE (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

7. A record from this system may be disclosed as a routine use to another Federal agency or Federal entity, when the Department determines that information from this System of Records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are on paper or in digital or other electronic form. Digital and other electronic images are stored on a storage area network in a secured environment. Records, whether paper or electronic, may be stored in a separate, secure location at the Department of Energy Headquarters or at the Department field sites.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by the name of the grievant or the employing organizational element, type of grievance/matter being grieved, or other unique identifier, such as employee identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Retention and disposition of these records is in accordance with the National Archives and Records Administration and DOE-approved records disposition schedule with a retention of 4 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records may be secured and maintained on a cloud-based software server and operating system that resides in Federal Risk and Authorization Management Program (FedRAMP) and Federal Information Security Modernization Act (FISMA) hosting environment. Data located in the cloud-based server is firewalled and encrypted at rest and in transit. The security mechanisms for handling data at rest and in transit are in accordance with DOE encryption standards. Records are protected from unauthorized access through the following appropriate safeguards:

- *Administrative:* Access to all records is limited to lawful government purposes only, with access to electronic records based on role and either two-factor authentication or password protection. The system requires passwords to be complex and to be changed frequently. Users accessing system records undergo frequent training in Privacy Act and information security requirements. Security and privacy controls are reviewed on an ongoing basis.
- *Technical:* Computerized records systems are safeguarded on Departmental networks configured for role-based access based on job responsibilities and organizational affiliation. Privacy and security controls are in place for this system and are updated in accordance with applicable requirements as determined by NIST and DOE directives and guidance.
- *Physical:* Computer servers on which electronic records are stored are located in secured Department facilities, which are protected by security guards, identification badges, and cameras. Paper copies of all records are locked in file cabinets, file rooms, or offices and are under the control of authorized personnel. Access to these facilities is granted only to authorized personnel and each person granted access to the system must be an individual authorized to use and/or administer the system.

RECORD ACCESS PROCEDURES:

The Department follows the procedures outlined in 10 CFR 1008.4. Valid identification of the individual making the request is required before information will be processed, given, access granted, or a correction considered, to ensure that information is given, corrected, or records disclosed or corrected only at the request of the proper person.

CONTESTING RECORD PROCEDURES:

Any individual may submit a request to the System Manager and request a copy of any records relating to them. In accordance with 10 CFR 1008.11, any individual may appeal the denial of a request made by him or her for information about or for access to or correction or amendment of records. An appeal shall be filed within 90 calendar days after receipt of the denial. When an appeal is filed by mail, the postmark is conclusive as to timeliness. The appeal shall be in writing and must be signed by the individual. The words ''PRIVACY ACT APPEAL'' should appear in capital letters on the envelope and the letter. Appeals of denials relating to records maintained in government-wide System of Records reported by Office of Personnel Management (OPM), shall be filed, as appropriate, with the Assistant Director for Agency Compliance and Evaluation, OPM, 1900 E Street NW, Washington, DC 20415. All other appeals relating to DOE records shall be directed to the Director, Office of Hearings and Appeals (OHA), 1000 Independence Ave. SW, Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, 10 CFR part 1008, a request by an individual to determine if a System of Records contains information about themselves should be directed to the U.S. Department of Energy, Headquarters, Privacy Act Officer. The request should include the requester's complete name and the time period for which records are sought.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This SORN was last published in the **Federal Register** (FR), 74 FR 998–999, on January 9, 2009.

Signing Authority

This document of the Department of Energy was signed on December 13, 2023, by Ann Dunkin, Senior Agency Official for Privacy, 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 December 14, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–27847 Filed 12–18–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: December 19, 2023, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Agenda.

* NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed online at the Commission's website at *https://elibrary.ferc.gov/eLibrary/search* using the eLibrary link.

1107TH—MEETING OPEN MEETING

[December 19, 2023 10:00 a.m.]

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD24–1–000	Agency Administrative Matters.
A–2	AD24–2–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD24–5–000	FERC–NERC-Regional Entity Joint Blackstart Availability Study in Texas.
	ELECTRIC	
E–1	AD24–6–000	Federal Power Act Section 203 Blanket Authorizations for Investment Companies.
E–2	ER23–2657–001, ER23–2658–001, ER23–2659–001, ER23–2660–001, ER23–2661–001.	Emera Energy LNG, LLC, Emera Energy Services Subsidiary No. 11 LLC, Emera Energy Services Subsidiary No. 12 LLC, Emera Energy Services Subsidiary No. 13 LLC, Emera Energy Services Subsidiary No. 15 LLC
E–3	EL02–60–007, EL02–60–013, EL02–62–006, EL02–62–012, (Consolidated).	Public Utilities Commission of the State of California v. Sellers of Long-Term Contracts to the California Department of Water Resources, California Electricity Oversight Board v. Sellers of Long-Term Contracts to the California Department of Water Resources
E–4	ER09–1256–000, ER09–1256–003, ER09–1256–005, ER09–1256–007, ER12–2708–000, ER12–2708–007, ER12–2708–009, ER12–2708–010.	Potomac-Appalachian Transmission Highline, LLC and PJM Interconnection, L.L.C.
E–5	ER22–2339–001	Southwest Power Pool, Inc.
E–6	EL24–4–000	Greenbacker Renewable Energy Company LLC, Greenbacker Renewable Energy Company II, LLC.
E–7	ER24–163–000	PJM Interconnection, L.L.C.
E–8	ER21–2818–000, EL22–4–000, (Consolidated), EL21–75–000, EL21–53–000, (Unconsolidated).	Tri-State Generation and Transmission Association, Inc., Wheat Belt Public Power District, La Plata Electric Association, Inc., Northwest Rural Public Power District, San Isabel Electric Association, Inc., San Miguel Power Association, Springer Electric Cooperative, Inc., and United Power Inc. v. Tri-State Generation and Transmission Association, Inc.
E–9	ER23–2183–000	Southwest Power Pool, Inc.
E–10	ER22–1846–004	Southwest Power Pool, Inc.
E–11	EL23–28–001, ER23–1195–002	Solar Energy Industries Association v. Midcontinent Independent System Operator, Inc., Midcontinent Independent System Operator, Inc.
E–12	EL23–106–000	Summit Ridge Energy, LLC and Osaka Gas USA Corporation.
E–13	ER22–2931–000, EL24–26–000	PJM Interconnection L.L.C.
E–14	EL23–63–000	Energy Harbor LLC v. PJM Interconnection, L.L.C.
E–15	ER23–2975–000, EL23–53–000, EL23–53–002, EL23–54–000, EL23–54–002, EL23–55–000, EL23–55–002, EL23–56–000, EL23–56–002, EL23–57–000, EL23–57–001, EL23–57–004, EL23–57–006, EL23–58–000, EL23–58–002, EL23–59–000, EL23–59–002, EL23–60–000, EL23–60–002, EL23–61–000, EL23–61–002, EL23–63–000, EL23–63–002, EL23–66–000, EL23–66–002, EL23–67–000, EL23–67–002, EL23–74–000, EL23–74–002, EL23–75–000, EL23–75–002, EL23–77–000, EL23–77–002.	PJM Interconnection L.L.C., Essential Power OPP, LLC, Essential Power Rock Springs, LLC and Lakewood Cogeneration, L.P. v. PJM Interconnection, L.L.C., Aurora Generation, LLC, LSP University Park, LLC, Rockford Power, LLC, Rockford Power II, LLC, University Park Energy, LLC, Elwood Energy LLC, Jackson Generation, LLC, Lee County Generating Station, LLC, and Lincoln Generating Facility, LLC v. PJM Interconnection. L.L.C., Coalition of PJM Capacity Resources v. PJM Interconnection, L.L.C., Talen Energy Marketing LLC v. PJM Interconnection, L.L.C., Lee County Generating Station, LLC v. PJM Interconnection, L.L.C., SunEnergy 1, LLC v. PJM Interconnection, L.L.C., Lincoln Generating Facility, LLC v. PJM Interconnection, Parkway Generation Keys Energy Center LLC v. PJM Interconnection, L.L.C., Old Dominion Electric Cooperative v. PJM Interconnection, L.L.C., Energy Harbor LLC v. PJM Interconnection, L.L.C., Calpine Corporation v. PJM Interconnection, L.L.C., Invenergy Nelson LLC v. PJM Interconnection, L.L.C., East Kentucky Power Cooperative, Inc. v. PJM Interconnection, L.L.C., CPV Maryland, LLC and Competitive Power Ventures Holding, LP v. PJM Interconnection, L.L.C., Parkway Generation Operating LLC and Parkway Generation Sewaren Urban Renewal Entity LLC v. PJM Interconnection, L.L.C.

1107TH—MEETING OPEN MEETING—Continued

[December 19, 2023 10:00 a.m.]

Item No.	Docket No.	Company
E–16	EL23–53–000, EL23–53–003, EL23–54–000, EL23–54–003, EL23–55–000, EL23–55–003, EL23–56–000, EL23–56–003, EL23–57–000, EL23–57–005, EL23–58–000, EL23–58–003, EL23–59–000, EL23–59–003, EL23–60–000, EL23–60–003, EL23–61–000, EL23–61–003, EL23–63–000, EL23–63–003, EL23–66–000, EL23–66–003, EL23–67–000, EL23–67–003, EL23–74–000, EL23–74–003, EL23–75–000, EL23–75–003, EL23–77–000, EL23–77–003, (not consolidated)..	Essential Power OPP, LLC, Essential Power Rock Springs, LLC, and Lakewood Cogeneration, L.P. v. PJM Interconnection, L.L.C., Aurora Generation, LLC, LSP University Park, LLC, Rockford Power, LLC, Rockford Power II, LLC, University Park Energy, LLC, Elwood Energy LLC, Jackson Generation, LLC, Lee County Generating Station, LLC, and Lincoln Generating Facility, LLC v. PJM Interconnection, L.L.C., Coalition of PJM Capacity Resources v. PJM Interconnection, L.L.C., Talen Energy Marketing, LLC v. PJM Interconnection, L.L.C., Lee County Generating Station, LLC v. PJM Interconnection, L.L.C., SunEnergy1, LLC v. PJM Interconnection, L.L.C., Lincoln Generating Facility, LLC v. PJM Interconnection, L.L.C., Parkway Generation Keys Energy Center LLC, v. PJM Interconnection, L.L.C., Old Dominion Electric Cooperative v. PJM Interconnection, L.L.C., Energy Harbor LLC, v.PJM Interconnection, L.L.C., Calpine Corporation, v. PJM Interconnection, L.L.C., Invenergy Nelson LLC v. PJM Interconnection, L.L.C., East Kentucky Power Cooperative, Inc. v. PJM Interconnection, L.L.C., CPV Maryland, LLC and Competitive, Power Ventures Holdings, LP v. PJM Interconnection, L.L.C., Parkway Generation Operating LLC and Parkway Generation Sewaren Urban Renewal Entity LLC v. PJM Interconnection, L.L.C.
GAS		
G–1	OR14–6–003	BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc., and ExxonMobil Pipeline Company.
HYDRO		
H–1	P–15287–000	HGE Energy Storage 3 LLC.
H–2	P–2082–071	PacifiCorp.
CERTIFICATES		
C–1	CP23–15–000	ANR Pipeline Company.
C–2	CP16–10–012	Mountain Valley Pipeline, LLC.
C–3	CP19–14–002	Mountain Valley Pipeline, LLC.
C–4	CP20–55–001	Port Arthur LNG Phase II, LLC, and PALNG Common Facilities Company, LLC.
C–5	CP22–16–000	Georgia-Pacific Consumer Operations LLC.

A free webcast of this event is available through the Commission's website. Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The Federal Energy Regulatory Commission provides technical support for the free webcasts. Please call (202) 502–8680 or email *customer@ferc.gov* if you have any questions.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters but will not be telecast.

Issued: December 12, 2023

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–27886 Filed 12–15–23; 11:15 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0070; FRL–10841–11–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients November 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before January 18, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0070, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anne Overstreet, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–2425, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or

pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (*https://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions*).

Notice of Receipt—New Active Ingredients

1. *File Symbol:* 40230–U. *Docket ID number:* EPA–HQ–OPP–2023–0557. *Applicant:* AgBioChem, Inc. 3750 North 1020 East, Provo, UT 84604. *Product name:* GALLTROL–B. *Active ingredient: Rhizobium radiobacter* strain K1026–AUS. *Proposed use:* Microbial pesticide for control of crown gall disease. *Contact:* BPPD.

2. *EPA Registration Numbers:* 94614–G; 94614–L; 94614–U. *Docket ID number:* EPA–HQ–OPP–2023–0558. *Applicant:* GreenLight Biosciences, Inc. 200 Boston Ave., Suite 1000, Medford, MA 02155. *Product names:* EP15 Technical; EP15 Formulation (2 g/L); EP15 Formulation (4 g/L). *Active ingredient:* Vadescana dsRNA. *Proposed use:* Miticide for honeybee hives. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 11, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–27773 Filed 12–18–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11610–01–OA]

Public Meetings of the Science Advisory Board Inorganic Arsenic Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office is announcing two public meetings of the Science Advisory Board Inorganic Arsenic Review Panel. The purpose of the meetings is to receive a briefing from EPA, review and discuss charge questions, listen to public comments and peer review the EPA's draft IRIS Toxicological Review of Inorganic Arsenic.

DATES:

Public meetings: The Science Advisory Board Inorganic Arsenic Review Panel will meet on the following dates. All times listed are in Eastern Time.

1. January 5, 2024, from 12 noon to 5 p.m.

2. January 24–26, 2024, from 8 a.m. to 5 p.m.

Comments: See the section titled ''Procedures for providing public input'' under **SUPPLEMENTARY INFORMATION** for instructions and deadlines.

ADDRESSES: The meeting on January 5, 2024, will be conducted virtually. Please refer to the SAB website at *https://sab.epa.gov* for information on how to attend the meeting. The January 24–26, 2024, meeting will be conducted in person and virtually at the DoubleTree by Hilton Hotel Washington DC—Crystal City, located at 300 Army Navy Drive, Arlington, Virginia, 22202. Please refer to the SAB website at *https://sab.epa.gov* for information on how to attend the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning this notice may contact Dr. Diana Wong, Designated Federal Officer (DFO), via telephone at (202) 564–2049, or email at *wong.diana-m@epa.gov.* General information about the SAB, as well as any updates concerning the meetings announced in this notice, can be found on the SAB website at *https://sab.epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the EPA Administrator on the scientific and technical basis for agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S. Code 10. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the Science Advisory Board Inorganic Arsenic Review Panel will hold two public meetings to review and discuss charge questions, listen to agency presentations, listen to public comments and peer review the EPA's draft IRIS Toxicological Review of Inorganic Arsenic.

Availability of meeting materials: All meeting materials, including the agendas, will be available on the SAB web page at *https://sab.epa.gov.*

Procedures for providing public input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide

independent advice to the EPA. Members of the public can submit relevant comments pertaining to the committee's charge or meeting materials. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comments should follow the instruction below to submit comments.

Oral statements: In general, individuals or groups requesting an oral presentation at a meeting conducted virtually will be limited to three minutes, and individuals or groups requesting an oral presentation at an in-person meeting will be limited to five minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Persons interested in providing oral statements should contact the DFO, in writing (preferably via email) at the contact information noted above by December 29, 2023, for the January 5, 2024, meeting; by January 17, 2024, for the January 24–26, 2024, meeting to be placed on the list of registered speakers.

Written statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by SAB members, statements should be submitted to the DFO by December 29, 2023, for consideration at the January 5, 2024, meeting, and January 17, 2024, for consideration at the January 24–26, 2024 meeting. Written statements should be supplied to the DFO at the contact information above via email. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information if included in any written comments, may be posted to the SAB website. Copyrighted material will not be posted without the explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact the DFO, at the contact information noted above, preferably at least ten days before the meetings, to give the EPA as much time as possible to process your request.

V Khanna Johnston,

Deputy Director, Science Advisory Board Staff Office.

[FR Doc. 2023–27828 Filed 12–18–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1034; OMB 3060–1103; FR ID 190583]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 20, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1034.

Title: Digital Audio Broadcasting Systems and their Impact on the Terrestrial Radio Broadcast Service; Form 2100, Schedule 335–FM—FM Digital Notification; Form 2100, Schedule 335–AM—AM Digital Notification.

Form Number: Form 2100, Schedule 335–FM—FM Digital Notification; Form 2100, Schedule

335–AM—AM Digital Notification.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and nonprofit entities.

Number of Respondents and Responses: 270 respondents; 270 responses.

Estimated Hours per Response: 1 hour-8 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 490 hours.

Total Annual Cost: $197,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303, 310, and 553 of the Communications Act of 1934, as amended.

Needs and Uses: FM and AM broadcast station licensees are required to notify the Commission of certain changes in digital operations using the Digital Notification Forms, FCC Form 2100, Schedules 335–FM and 335–AM (or any successor notification forms).

Specifically pertaining to this Information Collection, in the All-Digital AM Broadcasting Report and Order, FCC 20–154, MB Dockets 19–311 and 13–249, released on October 27, 2020, the Commission revised and reorganized the digital notification requirements formally contained in section 73.404(e) of the rules, by removing paragraph 73.404(e) and adding new section 73.406 Notification.

The notification requirements contained under 47 CFR 73.406 are as follows:

Hybrid AM and FM licensees must electronically file a digital notification to the Commission in Washington, DC, within 10 days of commencing IBOC digital operation. All-digital licensees must file a digital notification within 10 days of the following changes: (1) Any reduction in nominal power of an all-digital AM station; (2) a transition from enhanced to core-only operating mode; or (3) a reversion from all-digital to hybrid or analog operation. All-digital licensees will not be permitted to commence operation sooner than 30 calendar days from public notice of digital notification of the following changes: (1) The commencement of new

all-digital operation; (2) an increase in nominal power of an all-digital AM station; or (2) a transition from core-only to enhanced operating mode.

(a) Every digital notification must include the following information:

(1) The call sign and facility identification number of the station;

(2) If applicable, the date on which the new or modified IBOC operation commenced or ceased;

(3) The name and telephone number of a technical representative the Commission can call in the event of interference;

(4) A certification that the operation will not cause human exposure to levels of radio frequency radiation in excess of the limits specified in § 1.1310 of this chapter and is therefore categorically excluded from environmental processing pursuant to § 1.1306(b) of this chapter. Any station that cannot certify compliance must submit an environmental assessment (EA) pursuant to § 1.1311 of this chapter and may not commence IBOC operation until such EA is ruled upon by the Commission.

(b) Each AM digital notification must also include the following information:

(1) A certification that the IBOC DAB facilities conform to applicable nominal power limits and emissions mask limits;

(2) The nominal power of the station; if separate analog and digital transmitters are used, the nominal power for each transmitter;

(3) If applicable, the amount of any reduction in an AM station's digital carriers;

(4) For all-digital stations, the type of notification (all-digital notification, increase in nominal power, reduction in nominal power, transition from core-only to enhanced, transition from enhanced to core-only, reversion from all-digital to hybrid or analog operation);

(5) For all-digital stations, if a notification of commencement of new all-digital service or a nominal power change, whether the station is operating in core-only or enhanced mode; and

(6) For all-digital stations, a certification that the all-digital station complies with all EAS requirements.

(c) Each FM digital notification must also include the following information:

(1) A certification that the IBOC DAB facilities conform to the HD Radio emissions mask limits;

(2) FM digital effective radiated power used and certification that the FM analog effective radiated power remains as authorized;

(3) If applicable, the geographic coordinates, elevation data, and license file number of the auxiliary antenna employed by an FM station as a separate digital antenna; and

(4) If applicable, for FM systems employing interleaved antenna bays, a certification that adequate filtering and/or isolation equipment has been installed to prevent spurious emissions in excess of the limits specified in § 73.317.

OMB Control Number: 3060–1103.

Title: Section 76.41 Franchise Application Process.

Type of Review: Extension of a currently approved collection.

Form Number: N/A.

Respondents: State, local or tribal government, Business or other for-profit entities.

Number of Respondents and Responses: 22 respondents and 40 responses.

Estimated Hours per Response: 0.5 to 4 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure requirement.

Total Annual Burden: 90 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements are as follows: *47 CFR 76.41(b)* requires a competitive franchise applicant to include the following information in writing in its franchise application, in addition to any information required by applicable state and local laws:

(1) The applicant's name;

(2) The names of the applicant's officers and directors;

(3) The business address of the applicant;

(4) The name and contact information of a designated contact for the applicant;

(5) A description of the geographic area that the applicant proposes to serve;

(6) The PEG channel capacity and capital support proposed by the applicant;

(7) The term of the agreement proposed by the applicant;

(8) Whether the applicant holds an existing authorization to access the public rights-of-way in the subject franchise service area;

(9) The amount of the franchise fee the applicant offers to pay; and

(10) Any additional information required by applicable state or local laws.

The information collection requirements contained in *47 CFR 76.41(d)* states when a competitive franchise applicant files a franchise application with a franchising authority and the applicant has existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority grant or deny the application within 90 days of the date the application is received by the franchising authority. If a competitive franchise applicant does not have existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority must perform grant or deny the application within 180 days of the date the application is received by the franchising authority. A franchising authority and a competitive franchise applicant may agree in writing to extend the 90-day or 180-day deadline, whichever is applicable.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–27819 Filed 12–18–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0647; FR ID 190437]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before February 20, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060–0647.

Title: Biennial Survey of Cable Industry Prices, FCC Form 333.

Form Number: FCC Form 333.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents and Responses: 132 respondents and 722 responses.

Estimated Time per Response: 7 hours.

Frequency of Response: Biennial reporting requirement.

Total Annual Burden: 2,527 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

Needs and Uses: The Cable Television Consumer Protection and Competition Act of 1992 (''Cable Act'') requires the Commission to publish biennially a report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition and those that are not subject to effective competition. The Biennial Cable Industry Price Survey is intended to collect the data needed to prepare that report. The data from these questions are needed to complete this report.

Federal Communications Commission.

Marlene Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2023–27820 Filed 12–18–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX, 3060–XXXX, 3060–0386, 3060–0175, 3060–0320, 3060–0178, 3060–0190, 3060–0182, 3060–1121, 3060–0113, 3060–0009, 3060–0991, 3060–1171; FR ID 190420]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before January 18, 2024.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *https://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–xxxx.

Title: Section 73.1750, Discontinuance of operation; § 73.3549, Request for extension of time to operate without required monitors, indicating instruments, and EAS encoders and decoders; § 73.3550, Requests for new or modified call sign assignments.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondents and Responses: 300 respondents and 300 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i) and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 150 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television.

47 CFR 73.1750 requires that the licensee of each station provide a notification to the FCC in a Cancellation Application via the Commission's Licensing and Management System (LMS) of the permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee must forward the station license and other instruments of authorization to the FCC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, for cancellation.

47 CFR 73.3549 requires that requests for extension of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the EAS codes and Attention Signal should be made to the FCC by electronically filing via LMS. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the equipment is out of service.

47 CFR 73.3550(a) requires that all requests for new or modified call sign assignments for radio and television broadcast stations be made via LMS with the FCC. Paragraph (j) provides that a change in call sign assignment will be made effective on the date specified in the Call Sign Request Authorization generated by LMS acknowledging the assignment of the requested new call sign and authorizing the change.

OMB Control Number: 3060–xxxx.

Title: Section 73.619, Contours and service areas; § 73.625, TV antenna system; § 73.5006, Filing of petitions to deny against long-form applications; § 73.6024, Transmission standards and system requirements; § 73.6025, Antenna system and station location.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondents and Responses: 100 respondents and 100 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i) and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 50 hours.

Total Annual Cost: None.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television.

47 CFR 73.619(b)(5) requires that in determining coverage, the elevation or contour intervals must be taken from a high quality bald earth map or dataset such as the United States Geological Survey Topographic Quadrangle Maps or the National Elevation Dataset. We include these updates for informational purposes, but these changes do not impact an existing information collection or create a new collection.

47 CFR 73.625(c)(3)(v) requires that all azimuth plane patterns be plotted in a PDF attachment to an application in a size sufficient to be easily viewed; paragraph (vii) requires that if an elevation pattern is submitted in the application form, similar tabulations and PDF attachments must be provided for the elevation pattern; and paragraph (viii) requires that if a matrix pattern is submitted in the application form, similar tabulations must be provided as necessary in the form of a spreadsheet to accurately represent the pattern.

Similarly, 47 CFR 73.6025 requires that applications for modified Class A TV facilities proposing the use of directional antennas include the documentation in § 73.625(c)(3).

47 CFR 73.5006 requires that within ten days following the issuance of a public notice announcing that a long-form application for an AM, FM, or television construction permit has been accepted for filing, petitions to deny that application may be filed in the Commission's Licensing and Management (LMS) database. We include these updates for informational purposes, but these changes do not impact an existing information collection or create a new collection.

47 CFR 73.6024 requires that a Class A station within 275 kilometers of the U.S.-Mexico border must specify the full service emission mask in an application on FCC Form 2100. We include these updates for informational purposes, but these changes do not impact an existing information collection or create a new collection.

OMB Control Number: 3060–1121.

Title: Sections 1.30002, 1.30003, 1.30004, 73.875, 73.1657 and 73.1690, Disturbance of AM Broadcast Station Antenna Patterns.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondents and Responses: 1,195 respondents and 1,195 responses.

Estimated Time per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,960 hours.

Total Annual Cost: $1,078,200.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including revisions to 47 CFR 73.1675 and 73.1690. The revisions to this information collection are only with respect to 47 CFR 73.1675 and 47 CFR 73.1690, and are made for informational purposes only, and do not create new or modify existing burdens.

47 CFR 73.1675(c)(1) continues to state that where an FM, TV, or Class A TV licensee or permittee proposes to mount an auxiliary facility on an AM tower, it must also demonstrate compliance with § 1.30003 in the license application. The R&O revises paragraph (b) to note that the application for a construction permit is now made electronically via the Commission's Licensing and Management System using Form 2100, but this change does not modify any existing paperwork burdens or establish any new ones.

47 CFR 73.1690(c) continues to require FM, TV, or Class A TV station applicants to submit an exhibit demonstrating compliance with § 1.30003 or § 1.30002, as applicable, with a modification of license application, except for applications solely filed pursuant to paragraphs (c)(6) or (c)(9) of this section, where the installation is located on or near an AM tower, as defined in § 1.30002. The R&O revises paragraph (b) to indicate that certain changes can be made on FCC Form 2100, but this change does not modify any existing paperwork burdens or establish new ones, and similarly, paragraph (c)(3) is revised to note that the modification of license application is now made on Form 2100, but this change does not modify any existing paperwork burdens or establish any new ones.

Other information collection requirements that are covered under this collection that have not changed since last approved by the Office of Management and Budget (OMB) are as follows:

On August 14, 2013, the Commission adopted the Third Report and Order and Second Order on Reconsideration in the matter of An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification, MM Docket No. 93–177, FCC 13–115. In the Third Report and Order in this proceeding, the Commission harmonized and streamlined the Commission's rules regarding tower construction near AM stations. In AM radio, the tower itself functions as the antenna. Consequently, a nearby tower may become an unintended part of the AM antenna system, reradiating the AM signal and distorting the authorized AM radiation pattern. Our old rules contained several sections concerning tower construction near AM antennas that were intended to protect AM stations from the effects of such tower construction, specifically, §§ 73.1692, 22.371, and 27.63. These old rule sections imposed differing requirements on the broadcast and wireless entities, although the issue is the same regardless of the types of antennas mounted on a tower. Other rule parts, such as part 90 and part 24, entirely lacked provisions for protecting AM stations from possible effects of nearby tower construction. In the Third Report and Order the Commission adopted a uniform set of rules applicable to all services, thus establishing a single protection scheme regarding tower construction near AM tower arrays. The Third Report and Order also designates ''moment method'' computer modeling as the principal means of determining whether a nearby tower affects an AM radiation pattern. This serves to replace time-consuming direct measurement procedures with a more efficient computer modeling methodology that is reflective of current industry practice.

47 CFR 1.30002(a) requires a proponent of construction or modification of a tower within a specified distance of a nondirectional AM station, and also exceeding a specified height, to notify the AM station at least 30 days in advance of the commencement of construction. If the tower construction or modification would distort the AM pattern, the proponent shall be responsible for the installation and maintenance of detuning equipment.

47 CFR 1.30002(b) requires a proponent of construction or modification of a tower within a specified distance of a directional AM station, and also exceeding a specified height, to notify the AM station at least 30 days in advance of the commencement of construction. If the tower construction or modification would distort the AM pattern, the proponent shall be responsible for the installation and maintenance of detuning equipment.

47 CFR 1.30002(c) states that proponents of tower construction or alteration near an AM station shall use moment method modeling, described in § 73.151(c), to determine the effect of the construction or alteration on an AM radiation pattern.

47 CFR 1.30002(f) states that, with respect to an AM station that was authorized pursuant to a directional proof of performance based on field strength measurements, the proponent of the tower construction or modification may, in lieu of the study described in § 1.30002(c), demonstrate through measurements taken before and after construction that field strength values at the monitoring points do not exceed the licensed values. In the event that the pre-construction monitoring point values exceed the licensed values, the proponent may demonstrate that post-construction monitoring point values do not exceed the pre-construction values. Alternatively, the AM station may file for authority to increase the relevant monitoring point value after performing a partial proof of performance in accordance with § 73.154 to establish that the licensed radiation limit on the applicable radial is not exceeded.

47 CFR 1.30002(g) states that tower construction or modification that falls outside the criteria described in paragraphs § 1.30002(a) and (b) is presumed to have no significant effect on an AM station. In some instances, however, an AM station may be affected by tower construction notwithstanding the criteria set forth in paragraphs § 1.30002(a) and (b). In such cases, an AM station may submit a showing that its operation has been affected by tower construction or alteration. Such showing shall consist of either a moment method analysis or field strength measurements. The showing shall be provided to (i) the tower proponent if the showing relates to a tower that has not yet been constructed or modified and otherwise to the current tower owner, and (ii) to the Commission, within two years after the date of completion of the tower construction or modification. If necessary, the Commission shall direct the tower proponent to install and maintain any detuning apparatus necessary to restore proper operation of the AM antenna.

47 CFR 1.30002(h) states that an AM station may submit a showing that its operation has been affected by tower construction or modification commenced or completed prior to or on the effective date of the rules adopted in this part pursuant to MM Docket No. 93–177. Such a showing shall consist of either a moment method analysis or of field strength measurements. The showing shall be provided to the current owner and the Commission within one year of the effective date of the rules adopted in this part. If necessary, the Commission shall direct the tower owner, if the tower owner holds a Commission authorization, to install and maintain any detuning apparatus necessary to restore proper operation of the AM antenna.

47 CFR 1.30002(i) states that a Commission applicant may not propose, and a Commission licensee or permittee may not locate, an antenna on any tower or support structure, whether constructed before or after the effective date of these rules, that is causing a disturbance to the radiation pattern of the AM station, as defined in paragraphs

§ 1.30002(a) and (b), unless the applicant, licensee, or tower owner completes the new study and notification process and takes appropriate ameliorative action to correct any disturbance, such as detuning the tower, either prior to construction or at any other time prior to the proposal or antenna location.

47 CFR 1.30003(a) states that when antennas are installed on a nondirectional AM tower the AM station shall determine operating power by the indirect method (see § 73.51). Upon the completion of the installation, antenna impedance measurements on the AM antenna shall be made. If the resistance of the AM antenna changes, an application on FCC Form 302–AM (including a tower sketch of the installation) shall be filed with the Commission for the AM station to return to direct power measurement. The Form 302–AM shall be filed before or simultaneously with any license application associated with the installation.

47 CFR 1.30003(b) requires that, before antennas are installed on a tower in a directional AM array, the proponent shall notify the AM station so that, if necessary, the AM station may determine operating power by the indirect method (see § 73.51) and request special temporary authority pursuant to § 73.1635 to operate with parameters at variance. For AM stations licensed via field strength measurements (see § 73.151(a)), a partial proof of performance (as defined by § 73.154) shall be conducted both before and after construction to establish that the AM array will not be and has not been adversely affected. For AM stations licensed via a moment method proof (see § 73.151(c)), the proof procedures set forth in § 73.151(c) shall be repeated. The results of either the partial proof of performance or the moment method proof shall be filed with the Commission on Form 302–AM before or simultaneously with any license application associated with the installation.

47 CFR 1.30004(a) requires proponents of proposed tower construction or modification to an existing tower near an AM station that are subject to the notification requirement in §§ 1.30002 and 1.30003 to provide notice of the proposed tower construction or modification to the AM station at least 30 days prior to commencement of the planned tower construction or modification. Notification to an AM station and any responses may be oral or written. If such notification and/or response is oral, the party providing such notification or response must supply written documentation of the communication and written documentation of the date of communication upon request of the other party to the communication or the Commission. Notification must include the relevant technical details of the proposed tower construction or modification, and, at a minimum, also include the following: proponent's name and address; coordinates of the tower to be constructed or modified; physical description of the planned structure; and results of the analysis showing the predicted effect on the AM pattern, if performed.

47 CFR 1.30004(b) requires that a response to a notification indicating a potential disturbance of the AM radiation pattern must specify the technical details and must be provided to the proponent within 30 days.

47 CFR 1.30004(d) states that if an expedited notification period (less than 30 days) is requested by the proponent, the notification shall be identified as ''expedited,'' and the requested response date shall be clearly indicated.

47 CFR 1.30004(e) states that in the event of an emergency situation, if the proponent erects a temporary new tower or makes a temporary significant modification to an existing tower without prior notice, the proponent must provide written notice to potentially affected AM stations within five days of the construction or modification of the tower and cooperate with such AM stations to remedy any pattern distortions that arise as a consequence of such construction.

47 CFR 73.875(c) requires an LPFM applicant to submit an exhibit demonstrating compliance with § 1.30003 or § 1.30002, as applicable, with any modification of license application filed solely pursuant to paragraphs (c)(1) and (c)(2) of this section, where the installation is on or near an AM tower, as defined in § 1.30002.

OMB Control Number: 3060–0386.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; §§ 1.5, 73.1615, 73.1635, 73.1740 and 73.3598; CDBS Informal Forms; § 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; § 73.3700(b)(5), Post Auction Licensing; § 73.3700(f).

Form Number: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 5,537 respondents and 5,537 responses.

Estimated Time per Response: 0.50–4.0 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act); and sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,353 hours.

Total Annual Cost: $1,834,210.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television. The Commission revised 47 CFR 73.1635 such that Broadcast stations (AM, FM, TV, Class A TV or LPTV licensees or permittees) may file a request for STA electronically in the Commission's Licensing and Management System (LMS) for approval to permit a station to operate a broadcast facility for a limited period at a specified variance from the terms of the station's authorization or requirements of the FCC rules. Stations may file a request for STA approval for a variety of reasons. The request must describe the operating modes and facilities to be used. Types of STA requests include Engineering and Legal STAs.

The Commission also revised 47 CFR 73.1740 such that Broadcast stations (AM, FM, TV or Class A TV licensees) may file this form in the Commission's LMS to notify the Commission of the station's suspension of broadcast operations. Broadcast stations may also use this form to request a silent STA or extension thereof. Types of Silent Notifications include Notification of Suspension and Resumption of Operations. Pursuant to § 73.1740, broadcast station licensees must notify the Commission when events beyond their control make it impossible to

continue operation or to adhere to the required operating schedules set forth in this rule. In addition, they must notify the Commission when they resume normal operations. (No further authority is needed for limited operation or discontinued operation for a period not exceeding 30 days.) Should events beyond the licensees control make it impossible for compliance within the required 30-day time period, broadcast station licensees must file an informal letter request for silent operations (''Silent STA,'' discussed below in informal filings section).

The Commission also revised 47 CFR 73.1615 such that broadcast stations (AM, FM, TV or Class A TV licensees) must file a notification under 47 CFR 73.1615(c) when such a station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service for a period not more than 30 days (in which case it must file a Silent STA application or an Engineering STA application via LMS). Licensees or permittees of directional or nondirectional FM, TV or Class A TV or nondirectional AM must file a notification and comply with 47 CFR 73.1615(a). Licensees or permittees of a directional AM station whose modification does not involve a change in operating frequency must file a notification and comply with 47 CFR 73.1615(b). Licensees or permittees of a directional AM station whose modification does involve a change in frequency and determines it is necessary to discontinue operation for a period not more than 30 days must file a notification and comply with 47 CFR 73.1615(d)(2). The Commission does not have any program changes or adjustments to this collection as a result of the information collection requirements adopted in FCC 23–72 and there are no other adjustments to the other information collection requirements covered by this collection since last approved by OMB.

OMB Control Number: 3060–0320.

Title: Section 73.1350, Transmission System Operation.

Form Number: N/A.

Type of Review: Revision of an existing collection.

Respondents: Business or other for-profit entities; not-for-profit institutions. Currently approved collection.

Number of Respondents and Responses: 505 respondents and 505 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 253 hours.

Total Annual Cost: None.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including a revision to 47 CFR 73.1350(h).

47 CFR 73.1350(h) requires licensees to submit a ''letter of notification'' to the FCC via a Change of Control Point Notice in the Commission's Licensing and Management System (LMS) database, whenever a transmission system control point is established at a location other than at the main studio or transmitter within three days of the initial use of that point. The letter should include a list of all control points in use, for clarity. This notification is not required if responsible station personnel can be contacted at the transmitter or studio site during hours of operation.

OMB Control Number: 3060–0190.

Title: Section 73.3544, Application to Obtain a Modified Station License.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 325 respondents and 325 responses.

Estimated Time per Response: 0.25–1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 306 hours.

Total Annual Cost: $75,000.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including a revision to 47 CFR 73.3544(b) and (c).

47 CFR 73.3544(b) permits that an informal electronic filing of an Administrative Update via the Commission's Licensing and Management System (LMS) may be filed to cover the following changes: (1) A correction of the routing instructions and description of an AM station directional antenna system field monitoring point, when the point itself is not changed; (2) A change in the type of AM station directional antenna monitor. See § 73.69; (3) The location of a remote control point of an AM or FM station when prior authority to operate by remote control is not required.

47 CFR 73.3544(c) requires a change in the name of the licensee where no change in ownership or control is involved may be accomplished by electronically filing an Administrative Update via LMS by the licensee to the Commission.

OMB Control Number: 3060–0182.

Title: Section 73.1620, Program Tests.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions.

Number of Respondents and Responses: 1,469 respondents and 1,469 responses.

Estimated Time per Response: 1–5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,517 hours.

Total Annual Cost: None.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and

Class A television, including a revision to 47 CFR 73.1620(a)(1) through (3) and deletion of 47 CFR 73.1620(f) and (g). No other changes to the existing collection, restated below, are proposed.

47 CFR 73.1620(a)(1) requires permittees of a nondirectional AM or FM station, or a nondirectional or directional TV station to notify the FCC upon beginning of program tests via a Program Test Authority filing in the Commission's Licensing and Management System (LMS) database. An application for license must be filed with the FCC within 10 days of this notification.

47 CFR 73.1620(a)(2) requires a permittee of an FM station with a directional antenna to file a request with the FCC for program test authority 10 days prior to date on which it desires to begin program tests on FCC Form 2100 Schedule 302–FM in LMS. This is filed in conjunction with an application for license.

47 CFR 73.1620(a)(3) requires a licensee of an FM station replacing a directional antenna without changes that would not require the submission of a construction permit application to file with the FCC a modification of license application on FCC Form 2100 Schedule 302–FM within 10 days after commencing operations with the replacement antenna. This is filed in conjunction with an application for license.

47 CFR 73.1620(a)(4) requires a permittee of an AM station with a directional antenna to file a request with the FCC for program test authority 10 days prior to date on which it desires to begin program tests. This is filed in conjunction with an application for license.

47 CFR 73.1620(a)(5) except for permits subject to successive license terms, the permittee of an Low Power TV (LPFM) station may begin program tests upon notification to the FCC in Washington, DC, provided that within 10 days thereafter, an application for license is filed. Program tests may be conducted by a licensee subject to mandatory license terms only during the term specified on such licensee's authorization.

47 CFR 73.1620(b) the Commission reserves the right to revoke, suspend, or modify program tests by any station without right of hearing for failure to comply adequately with all terms of the construction permit or the provisions of § 73.1690(c) for a modification of license application, or in order to resolve instances of interference. The Commission may, at its discretion, also require the filing of a construction permit application to bring the station into compliance the Commission's rules and policies.

OMB Control Number: 3060–0178.

Title: Section 73.1560, Operating Power and Mode Tolerances.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities or Not-for-profit institutions.

Number of Respondents and Responses: 80 respondents and 80 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 80 hours.

Total Annual Cost: $20,000.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including a revision to 47 CFR 73.1560(d).

47 CFR 73.1560(d) requires that licensees of AM, FM or TV stations file a notification with the FCC via the Commission's Licensing and Management System (LMS) when operation at reduced power will exceed ten consecutive days in a Reduced Power Notification and upon restoration of normal operations. If causes beyond the control of the licensee prevent restoration of authorized power within a 30-day period, an informal request for Special Temporary Authority must be made via LMS for any additional time as may be necessary to restore normal operations.

OMB Control Number: 3060–0175.

Title: Section 73.1250, Broadcasting Emergency Information.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities or Not-for-profit institutions.

Number of Respondents and Responses: 50 respondents and 50 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 50 hours.

Total Annual Cost: None.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including a revision to 47 CFR 73.1250(e) to update the address in which a report in letter form shall be forwarded to.

Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to, tornadoes, hurricanes, floods, tidal waves, earthquakes, and school closings.

47 CFR 73.1250(e) requires that immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages or when daytime facilities were used during nighttime hours by an AM station, a report in letter form shall be forwarded to the FCC's main office in Washington, DC, as indicated in 47 CFR 0.401(a), setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information and a brief description of the material carried during the emergency. A certification of compliance with the non-commercialization provision must accompany the report where daytime facilities are used during nighttime hours by an AM station.

OMB Control Number: 3060–0113.

Title: Form 2100, Schedule 396—Broadcast Equal Employment Opportunity Program Report.

Form Number: FCC 2100, Schedule 396.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 2,960 respondents and 2,960 responses.

Estimated Time per Response: 0.5–2 hours.

Frequency of Response: On renewal reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in section 154(i) and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,436 hours.

Total Annual Cost: $666,000.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including a revision to 47 CFR 73.2080. No other changes to OMB Control Number 3060–0113, approved August 2021, been made, with the exception of an added description regarding the revision to § 73.2080. That description is for illustrative purposes only, and also does not create any new or modified paperwork obligations.

OMB Control Number: 3060–0009.

Title: FCC Form 2100, Schedule 316—Application for Consent to Assign Broadcast Station Construction Permit or License or Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

Form Number: FCC Form 2100, Schedule 316.

Type of Review: Revision a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or tribal government.

Number of Respondents and Responses: 750 respondents and 750 responses.

Estimated Time per Response: 1.5–4.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. Statutory authority for this collection of information is contained in sections 154(i) and 310(d) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,231 hours.

Total Annual Cost: $711,150.

Needs and Uses: The Commission adopted on September 18, 2023, the Report and Order (R&O), Amendment of part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations, MB Docket No. 22–227, FCC 23–72. The R&O adopted a number of revisions to the Commission's rules to reorganize and clarify the Commission's technical licensing, operating, and interference rules for full power and Class A television, including revisions to 47 CFR 73.3540 to update the reference to FCC Form 2100, Schedule 316. For informational purposes, the Commission also will update reference in 47 CFR 73.3540 to FCC Form 2100, Schedules 314 and 315 covered under OMB 3060–0031 and FCC Form 2100, Schedule 345 covered under 3060–0075. The Commission will not revise these collections because only the reference to the forms will be updated. We are noting this in this collection. The revision to this information collection is made for informational purposes only, and does not create new or modify existing burdens. Other information collection requirements that are covered under this collection have not changed since last approved by the Office of Management and Budget (OMB).

OMB Control Number: 3060–0991.

Title: AM Measurement Data.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,800 respondents; 3,135 responses.

Estimated Hours per Response: 0.50–25 hours.

Frequency of Response: Recordkeeping requirement, Third party disclosure requirement, On occasion reporting requirement.

Total Annual Burden: 20,200 hours.

Total Annual Cost: $1,131,500.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 151, 152, 154(i), 303, and 307 of the Communications Act of 1934, as amended.

Needs and Uses: In order to control interference between stations and assure adequate community coverage, AM stations must conduct various engineering measurements to demonstrate that the antenna system operates as authorized. The data is used by station engineers to correct the operating parameters of the antenna. The data is also used by FCC staff in field investigations to ensure that stations are in compliance with the technical requirements of the Commission's various rules.

OMB Control Number: 3060–1171.

Title: Commercial Advertisement Loudness Mitigation (''CALM'') Act; 73.682(e) and 76.607(a).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2,937 respondents and 4,868 responses.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement.

Estimated Time per Response: 0.25–80 hours.

Total Annual Burden: 6,036 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i) and (j), 303(r) and 621.

Needs and Uses: The Commission will use this information to determine compliance with the CALM Act. The CALM Act mandates that the Commission make the Advanced Television

Systems Committee (''ATSC'') A/85 Recommended Practice mandatory for all commercial TV stations and cable/multichannel video programming distributors (MVPDs).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–27810 Filed 12–18–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 191808]

Privacy Act System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to modify an existing system of records, FCC/OS–1, Electronic Comment Filing System (ECFS), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The Commission uses this system to handle and process public comments related to FCC rulemakings and other proceedings. This modification makes various

necessary changes to the Categories of Records and identifies a new FCC point of contact.

DATES: This modified system of records will become effective on December 19, 2023. Written comments on the routine uses are due by January 18, 2024. The routine uses in this action will become effective on January 18, 2024 unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Brendan McTaggart, Federal Communications Commission, 45 L Street NE, Washington, DC 20554 or *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Brendan McTaggart, (202) 418–1738, or *privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which include details of the proposed alterations to this system of records).

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed modification of a system of records maintained by the FCC. The FCC previously provided notice of the system of records, FCC/OS–1 by publication in the **Federal Register** on October 5, 2023 (88 FR 69180).

The substantive changes and modifications to the previously published version of the FCC/OS–1 system of records include:

1. Modifying the language in the Categories of Records to be more specific about the types of personally identifiable information maintained in the system.

2. Updating the name of the FCC point of contact.

SYSTEM NAME AND NUMBER:

FCC/OS–1, Electronic Comment Filing System (ECFS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554 and 1270 Fairfield Road, Gettysburg, PA 17325.

SYSTEM MANAGER:

Office of the Secretary, Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. Chapter 36; 47 U.S.C. 151 and 154; and Sections 504 and 508 of the Rehabilitation Act, 29 U.S.C. 794.

PURPOSES OF THE SYSTEM:

The ECFS collects comments and related data or metadata received by the FCC, whether electronically through the ECFS via an internet web-browser, by mail, by hand delivery of paper copy, or by other methods, as well as other files and records submitted in response to Commission rulemakings and docketed proceedings, and by the FCC's administrative law staff as the repository for official records for administrative proceedings. In order to comply with the requirements of various statutes and regulations, the FCC offers multiple avenues through which the public can be involved in the FCC decision-making process and can inform the FCC of concerns regarding compliance with FCC rules and requirements. Collecting and maintaining these types of information allows the FCC to be fully informed in decision-making, implementation, and enforcement endeavors. The ECFS also allows staff access to documents and data necessary for key activities discussed in this SORN including analyzing effectiveness and efficiency of related FCC programs and informing future rule and policy-making activity, and improve staff efficiency. Records in this system are available for public inspection.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and representatives of groups, companies, and other entities who have filed comments as well as other files and records in FCC rulemakings and docketed proceedings or other matters arising under the Communications Act of 1934, as amended, the Rehabilitation Act, or related statutes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Comments received by the FCC, whether electronically through the Electronic Comment Filing System (ECFS) via an internet web-browser, by mail, by hand delivery of paper copy, or other methods which include personally identifiable information provided by the filer such as name, home or business address, phone number, and/or email address. ECFS also collects certain network information from a filer and/or user submitting information to the FCC, such as IP address, geolocation, and computer operating system. The system also contains other files and records submitted in response to Commission rulemakings and docketed proceedings, and by the FCC's administrative law staff as the repository for official records arising out of the conduct of administrative proceedings.

RECORD SOURCE CATEGORIES:

Information in this system is provided by individuals, groups, companies, and other entities who make or provide comments or other files and records in FCC rulemakings and docketed proceedings, as well as FCC staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Public Access—Under the rules of the Commission, public comments as well as other files and records submitted in rulemakings and other docketed proceedings are routinely available to the public—unless confidentiality is requested (47 CFR 0.459)—via the ECFS and may also be disclosed to the public in Commission releases.

2. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of FCC rules, regulations, orders, or requirements by an applicant, licensee, certified or regulated entity, or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. Where a complainant in filing his or her complaint explicitly requests confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint.

3. Litigation—To disclose records to the Department of Justice (DOJ) when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the FCC collected the records.

4. Adjudication—To disclose records in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

5. Law Enforcement and Investigation—To disclose pertinent information to appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

6. Congressional Inquiries—To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the written request of that individual.

7. Government-wide Program Management and Oversight—To DOJ to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

8. Breach Notification—To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of PII maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information system, programs, and operations), the Federal Government, or national security; and; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

9. Assistance to Federal Agencies and Entities Related to Breaches—To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

10. Non-Federal Personnel—To disclose information to non-Federal personnel, including contractors, other vendors (*e.g.,* identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract, service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This an electronic system of records that resides on the FCC's network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by any category field, *e.g.,* individual name, entity name, rulemaking number, and/or docket number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) General Records Schedule 6.6: Rulemaking Records (DAA–GRS–2017–0012).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored in a database housed in the FCC computer network. While comments and other files and records are generally publicly available, access to certain information associated with filings is restricted to authorized employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis. The electronic files and records are protected by the FCC privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

88 FR 69180 (October 5, 2023).

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2023–27898 Filed 12–18–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0715; OMB 3060–1139; FR ID 190754]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not

conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before January 18, 2024.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0715.

Title: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, and State, Local, or Tribal government.

Number of Respondents and Responses: 2,800 respondents; 94,434,733 responses.

Estimated Time per Response: .002–50 hours.

Frequency of Response: On occasion, annual, and one-time reporting requirements; recordkeeping; and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for these collections are contained in Section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222.

Total Annual Burden: 232,691 hours.

Total Annual Cost: $4,000,000.

Needs and Uses: Section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222, establishes the duty of telecommunications carriers to protect the confidentiality of its customers' proprietary information. This Customer Proprietary Network Information (CPNI) includes personally identifiable information derived from a customer's relationship with a provider of telecommunications services. This information collection implements the statutory obligations of Section 222. These regulations impose safeguards to protect customers' CPNI against unauthorized access and disclosure. In March 2007, the Commission adopted new rules that focused on the efforts of providers of telecommunications services to prevent pretexting. These rules require providers of telecommunications services to adopt additional privacy safeguards that, the Commission believes, will limit pretexters' ability to obtain unauthorized access to the type of personal customer information from carriers that the Commission regulates. In addition, in furtherance of the Telephone Records and Privacy Protection Act of 2006, the Commission's rules help ensure that law enforcement will have necessary tools to investigate and enforce prohibitions on illegal access to customer records.

OMB Control Number: 3060–1139.

Title: FCC Consumer Broadband Services Testing and Measurement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit and individuals or households.

Number of Respondents and Responses: 501,020 respondents and 501,020 responses.

Estimated Time per Response: 1 hour—200 hours.

Frequency of Response: Biennial reporting requirement and third-party disclosure requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in the Broadband Data Improvement Act of 2008, Public Law 110–385, Stat 4096, 103(c)(1).

Total Annual Burden: 46,667 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Commission will submit this expiring collection after this 60-day comment period to the Office of Management and Budget (OMB) to obtain the full three-year clearance.

This study's collection of information on actual speeds and performance of fixed and mobile broadband connections delivered to consumers by ISPs has been reported to be of great value to academic researchers, manufacturers and technology providers, broadband providers, public interest groups and other diverse stakeholders. Validation of fixed broadband subscribed speeds as opposed to actual speeds by participating ISPs remains unique to this program and provides a context for measured speeds. Mobile broadband performance information is measured using the FCC Speed Test app for Android and iOS devices to test the upload and download speeds, latency and packet loss, as well as the wireless performance characteristics of the broadband connection and the kind of handsets and versions of operating systems tested. Information the FCC Speed Test App (''Application'') collects is limited to information used to measure volunteers' mobile broadband service and no personally identifiable information, such as subscribers' name,

phone number or unique identifiers associated with a device is collected. Software-based tools and online tools exist that can test consumer's broadband connections, including a set of consumer tools launched by the FCC in conjunction with the National Broadband Plan. However, these tools track speeds experienced by consumers, rather than speeds delivered directly to a consumer by an ISP. The distinction is important for supporting Agency broadband policy analysis, as ISPs advertise speeds and performance delivered rather than speeds experienced, which suffers from degradation outside of an ISP's control. No other dedicated panel of direct fixed and mobile broadband performance measurement using publicly documented methodologies using free and add-free technologies exists today in the country. The program will continue to support existing software-based tools and online tools but the focus of the program will remain the direct measurement of broadband performance delivered to the consumer. The collection effort also has specific elements focused on further network performance statistics, time of day parameters, and other elements affecting consumers' broadband experience that are not tracked elsewhere. The information to be confirmed by ISP Partners about their subscribers or technical and market data regarding the broadband services they provide is unavailable from other sources.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–27818 Filed 12–18–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 23–14]

D.F. Young, Incorporated, Complainant v. Wallenius Wilhelmsen Logistics, Respondent; Notice of Filing of Complaint and Assignment

Served: December 13, 2023.

Notice is given that a complaint has been filed with the Federal Maritime Commission (the ''Commission'') by D.F. Young, Incorporated (the ''Complainant'') against Wallenius Wilhelmsen Logistics (the ''Respondent''). Complainant states that the Commission has jurisdiction over the complaint pursuant to 46 U.S.C. 41301, 40904, 41102, and 41104 and 46 CFR 515.42.

Complainant is a corporation organized and existing under the laws of Pennsylvania with a principal place of business in Berwyn, Pennsylvania and is in the business of providing services as an ocean transportation intermediary and operates as a non-vessel operating common carrier.

Complainant identifies Respondent as a corporation organized and existing under the laws of New York with a principal place of business in Parsippany, New Jersey and as a common carrier of goods by water for hire.

Complainant alleges that Respondent violated 46 U.S.C. 41102 and 46 CFR 515.42 regarding a failure to establish, observe, and enforce just and reasonable practices relating to receiving, handling, storing, and delivering property and a failure to pay compensation when the common carrier's tariff provides for such payment. Complainant alleges these violations arose from a refusal to compensate for freight forwarding services on shipments of automobiles in accordance with the terms of the applicable tariff following demand for such compensation.

An answer to the complaint must be filed with the Commission within 25 days after the date of service.

The full text of the complaint can be found in the Commission's electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/23-14/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by December 13, 2024, and the final decision of the Commission shall be issued by June 27, 2025.

Alanna Beck,

Federal Register Alternate Liaison Officer, Federal Maritime Commission.

[FR Doc. 2023–27823 Filed 12–18–23; 8:45 am]

BILLING CODE 6730–02–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 January 17, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Treynor Bancshares, Inc., Treynor, Iowa;* to acquire all of the additional voting shares of TS Contrarian Bancshares, Inc., and subsequently merge with TS Contrarian Bancshares Inc., thereby indirectly acquiring voting shares of Bank of Tioga, Tioga, North Dakota, and First National Bank and Trust Company, Clinton, Illinois.

This notice is related to the document, Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company, *The Joshua Guttau Generational Irrevocable Trust, et als.,* published elsewhere in today's issue of the **Federal Register**.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–27777 Filed 12–18–23; 8:45 am]

BILLING CODE 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 January 2, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *The Joshua Guttau Generational Irrevocable Trust and the Heidi A. Guttau Generational Irrevocable Trust, Scott Braden and Lyse Wells as co-trustees, all of Treynor, Iowa;* to join the Guttau Family Control Group, a group acting in concert, to each acquire 23.47 percent of the voting shares of Treynor Bancshares, Inc., Treynor, Iowa, and thereby indirectly acquire voting shares of TS Bank, Treynor, Iowa, Bank of Tioga, Tioga, North Dakota, and First National Bank and Trust Company, Clinton, Illinois.

This notice is related to the document, Formations of, Acquisitions by, and Mergers of Bank Holding Companies, *Treynor Bancshares, Inc. et als.;* published elsewhere in today's issue of the **Federal Register**.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–27776 Filed 12–18–23; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–MY–2023–04; Docket No. 2023–0002; Sequence No. 46]

Senior Policy Operating Group's Procurement and Supply Chains Committee Outreach Session

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice of public meeting.

SUMMARY: GSA is providing notice of a public meeting on behalf of the Chief Acquisition Officers Council (CAOC) and the Senior Policy Operating Group's (SPOG) Procurement and Supply Chains Committee to build understanding and awareness about the anti-human trafficking requirements of the Federal Acquisition Regulation (FAR), share information about U.S. government tools and reporting to assist with compliance, and to discuss actions the Federal Government can take to achieve more effective implementation.

DATES: The SPOG Procurement and Supply Chains Committee will hold a web-based open public meeting on Thursday, January 18th, from 11 a.m. to 1 p.m. Eastern Standard Time (EST).

ADDRESSES: The meeting will be accessible via webcast. Registrants will receive the webcast information before the meeting.

FOR FURTHER INFORMATION CONTACT: Shenaye Holmes, Senior Advisor, General Services Administration, Office of Government-wide Policy, 202–213–2922 or email: *shenaye.holmes@gsa.gov;* or Harry D'Agostino, *harry.dagostino@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Action Plan to Combat Human Trafficking (available at: *https://www.whitehouse.gov/wp-content/uploads/2021/12/National-Action-Plan-to-Combat-Human-Trafficking.pdf*) Priority Action 1.3.1 calls on the Chief Acquisition Officers to support a public outreach session hosted by the SPOG Procurement and Supply Chains Committee (the Committee) for contracting companies, non-governmental organizations, international partners, associates of State, local, Tribal, and Territorial officials, and any interested parties to build understanding and awareness about the anti-trafficking requirements of the FAR. Policy officials from the Committee will review recent efforts to prevent and address human trafficking in Federal supply chains and invite members of the public to provide input on ways to strengthen implementation of anti-trafficking requirements in Federal acquisition.

The first public meeting was held in January 2023 (88 FR 863). This will be the second public meeting and topics will include, but not be limited to the following: (1) experience with OMB Memorandum M–20–01, Anti-Trafficking Risk Management Best Practices & Mitigation Considerations, (2) trainings and resources for government and contractors, (3) using internal government findings, such as the Department of Labor's List of Products Produced by Forced or Indentured Child Labor, to assist in analyzing supply chains, and (4) developments in combating trafficking in global supply chains that would be helpful to apply to Federal procurement.

Additionally, we are particularly interested in hearing from stakeholders regarding the following anti-trafficking related efforts:

1. Promising practices in creating a supply chain due diligence program, including implementing a compliance plan to prevent and address the prohibited activities listed in FAR 52.222–50;

2. Successful awareness and training programs that inform employees about the FAR's prohibitions against trafficking-related activities;

3. Increasing the ability of workers to report violations and suspected violations; and

4. Examples of effective remediation.

Meeting Registration

The meeting is open to the public. The meeting will be accessible by webcast. Registration is required for web viewing. To register, go to: *https://gsa.zoomgov.com/webinar/register/WN_2UYgv6xbQDGNh2ixMEIQaA#/registration.*

Attendees must register by 5:00 p.m., on January 11, 2024. All registrants will be asked to provide their name, affiliation, and email address. After registration, individuals will receive webcast access information via email. Additionally, using the registration page, registrants will be able to submit questions for the Committee or whether they wish to present recommendations or lessons learned during the meeting.

Special Accommodations

For information on services for individuals with disabilities, or to request accommodation of a disability, please contact the Designated Federal Officer at least 10 business days prior to the meeting to give GSA as much time

as possible to process the request. Closed captioning and live ASL interpreter services will be available.

Shenayé V. Holmes,

Senior Advisor, Federal Privacy Council, Made in America Council, Chief Acquisition Officers Council.

[FR Doc. 2023–27781 Filed 12–18–23; 8:45 am]

BILLING CODE 6820–69–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–1716]

Registration and Listing of Cosmetic Product Facilities and Products; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled ''Registration and Listing of Cosmetic Product Facilities and Products.'' The guidance will assist persons submitting cosmetic product facility registrations and product listing submissions to FDA under the Modernization of Cosmetics Regulation Act of 2022 (MoCRA). This guidance also includes a new draft section, Appendix B, for comment purposes only, that describes frequently asked questions and answers about cosmetic product facility registrations and product listing submissions. Aside from that section, this guidance finalizes the draft guidance that was published on August 8, 2023.

DATES: The announcement of the guidance is published in the **Federal Register** on December 19, 2023. However, the portion of this guidance that describes frequently asked questions and answers, is being distributed for comment purposes only. To ensure that the Agency considers your comment on this draft section before it begins work on the final version of this section of the guidance, submit either electronic or written comments on this section by January 18, 2024.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–1716 for ''Registration and Listing of Cosmetic Product Facilities and Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to Office of Cosmetics and Colors, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Jennifer Ross, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993–0002, 301–796–4880 (this is not a toll-free number), email: *QuestionsAboutMoCRA@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Registration and Listing of Cosmetic Product Facilities and Products.'' We are issuing this guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not

establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

On December 29, 2022, the President signed the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) into law, which included MoCRA. Among other provisions, MoCRA added section 607 to the Federal Food, Drug, and Cosmetic Act (FD&C Act), establishing requirements for cosmetic product facility registration and cosmetic product listing. Section 607(a) of the FD&C Act (21 U.S.C. 364c(a)) requires every person that owns or operates a facility that engages in the manufacturing or processing of a cosmetic product for distribution in the United States to register each facility with FDA no later than 1 year after the date of enactment. In addition to the registration requirements, section 607(c) of the FD&C Act requires that for each cosmetic product, the responsible person submit to FDA ''a cosmetic product listing.'' Certain small businesses, as defined in section 612 of the FD&C Act (21 U.S.C. 364h), are exempt from the registration and listing requirements.

In the **Federal Register** of August 8, 2023 (88 FR 53490), we made available a draft guidance for industry entitled ''Registration and Listing of Cosmetic Product Facilities and Products'' and gave interested parties an opportunity to submit comments by September 7, 2023, for us to consider before beginning work on the final version of the guidance. We received numerous comments on the draft guidance and have modified the final guidance where appropriate. Changes to the guidance include additional information on the facility registration number, United States agent, electronic and paper submission, as well as incorporating FDA's compliance policy we made available in a guidance for industry as described in the **Federal Register** of November 8, 2023 (88 FR 77323). In addition, we made editorial changes to improve clarity. New appendix B of this guidance is highlighted in grey, describes frequently asked questions and answers, and is marked ''for comment purposes only'' to provide an opportunity for comment before it is finalized. Aside from appendix B, this guidance finalizes the draft guidance that was published on August 8, 2023.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in section 607 of the FD&C Act have been approved under 0910–0599.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/CosmeticGuidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.* Use the FDA websites listed in the previous sentence to find the most current version of the guidance.

Dated: December 12, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27649 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–P–4596]

Determination That MEPHYTON (Phytonadione) Tablets, 5 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that MEPHYTON (phytonadione) tablets, 5 milligrams (mg), were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5236, Silver Spring, MD 20993–0002, 301–796–8363, *Stacy.Kane@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

MEPHYTON (phytonadione) tablets, 5 mg, are the subject of NDA 010104, held by Bausch Health Americas, Inc., and initially approved in 1955. MEPHYTON is a vitamin K replacement indicated for the treatment of adults with the following coagulation disorders, which are due to faulty formation of factors II, VII, IX and X when caused by vitamin K deficiency or interference with vitamin K activity:

- Anticoagulant-induced prothrombin deficiency caused by coumarin or indanedione derivatives
- Hypoprothrombinemia secondary to antibacterial therapy
- Hypoprothrombinemia secondary to factors limiting absorption or synthesis of vitamin K, *e.g.,* obstructive jaundice, biliary fistula, sprue, ulcerative colitis, celiac disease, intestinal resection, cystic fibrosis of the pancreas, and regional enteritis
- Other drug-induced hypoprothrombinemia where it is

definitively shown that the result is due to interference with vitamin K metabolism, *e.g.,* salicylates

MEPHYTON (phytonadione) tablets, 5 mg, are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Lachman Consults submitted a citizen petition dated October 17, 2023 (Docket No. FDA–2023–P–4596), under 21 CFR 10.30, requesting that the Agency determine whether MEPHYTON (phytonadione) tablets, 5 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that MEPHYTON (phytonadione) tablets, 5 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that MEPHYTON (phytonadione) tablets, 5 mg, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of MEPHYTON (phytonadione) tablets, 5 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list MEPHYTON (phytonadione) tablets, 5 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27858 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–4395]

Use of Real-World Evidence To Support Regulatory Decision-Making for Medical Devices, Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices.'' FDA is issuing this draft guidance to clarify how FDA evaluates real-world data (RWD) to determine whether they are of sufficient quality for generating real-world evidence (RWE) that can be used in FDA regulatory decision-making for medical devices. This draft guidance proposes expanded recommendations to the 2017 guidance entitled ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices.'' This draft guidance is not final nor is it for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by February 20, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–4395 for ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access

the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or to Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Soma Kalb, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 318, Silver Spring, MD 20993–0002, 301–796–6359; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this draft guidance to clarify how FDA evaluates RWD to determine whether they are of sufficient quality for generating RWE that can be used in FDA regulatory decision-making for medical devices. This draft guidance proposes expanded recommendations to the 2017 guidance entitled ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices'' (the 2017 RWE Guidance). On December 29, 2022, the Food and Drug Omnibus Reform Act of 2022 (FDORA) was signed into law as part of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328). Section 3629 of FDORA ''Facilitating the Use of Real World Evidence'' directs FDA to issue or revise existing guidance on considerations for the use of RWD and RWE to support regulatory decision making. FDA is issuing this draft guidance to propose revisions to the 2017 RWE Guidance to satisfy the requirement under section 3629(a)(2). This draft guidance also fulfills a commitment in section V.F. of the Medical Device User Fee Amendments Performance Goals and Procedures, Fiscal Years 2023 Through 2027 (MDUFA V).

This draft guidance includes FDA's recommendations and considerations on the factors that are expected to be assessed to demonstrate whether the RWD are fit-for-purpose for a particular regulatory decision relating to medical devices. When this draft guidance is finalized, these recommendations and considerations will apply regardless of the RWD source and will encompass processes for conducting studies to generate RWE. A fit-for-purpose assessment should evaluate both the relevance and reliability of a RWD source, as discussed in more detail in the draft guidance. FDA recognizes that there may be other approaches to address the considerations identified in this draft guidance. We encourage sponsors to discuss their approach with FDA, especially if the approach diverges from the recommendations in this draft guidance, when finalized.

The topics covered within this draft guidance are framed specifically for the use of RWD/RWE in regulatory submissions. This draft guidance includes additional clarity regarding the recommended methodologies for collection and analysis of RWD to generate RWE, and provides updated examples on previously used and accepted methodologies. This draft guidance also provides additional clarity regarding the use of clinical data collected from the use of a device authorized under an Emergency Use Authorization (EUA) and to describe the type of information that could be applicable to support a determination under the Clinical Laboratory Improvement Amendments (CLIA) (*e.g.,* Waiver by Application).

FDA recognizes and anticipates that the Agency and industry may need up to 60 days to perform activities to operationalize the recommendations within the final guidance. At this time, the Agency anticipates that, for regulatory submissions that will be currently pending with FDA after publication of the final guidance, as well as those submissions received within 60 days following publication of the final guidance, FDA generally would not anticipate that sponsors will be ready to include the newly recommended information outlined in the final guidance in their submission. FDA, however, would intend to review any such information if submitted at any time.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00500012 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part or guidance	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Use Devices; Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
860, subpart D	De Novo classification process	0910–0844
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-Submissions and Early Payor Feedback Request Programs for Medical Devices.	0910–0756
822	Postmarket Surveillance of Medical Devices	0910–0449
50, 56	Protection of Human Subjects and Institutional Review Boards	0910–0130
601	Biologics License Application	0910–0338
803	Medical Device Reporting	0910–0437
''Administrative Procedures for CLIA Categorization'' and ''Recommendations: Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices''.	CLIA Administrative Procedures; CLIA Waivers	0910–0607
800, 801, 809, and 830	Medical Device Labeling Requirements; Unique Device Identification.	0910–0485
860	Reclassification Petition for Medical Devices	0910–0138
''Emergency Use Authorization of Medical Products and Related Authorities''.	EUA	0910–0595

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27852 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2058]

James Funaro: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring James Funaro for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Funaro was convicted of one felony count under Federal law for conspiracy to launder money. The factual basis supporting Mr. Funaro's conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Funaro was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of October 11, 2023 (30 days after receipt of the notice), Mr. Funaro had not responded. Mr. Funaro's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable December 19, 2023.

ADDRESSES: Any application by Mr. Funaro for termination of debarment under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted as follows:

Electronic Submissions

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. An application submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application 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 application, that information will be posted on *https://www.regulations.gov*.
- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

- *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 a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All applications must include the Docket No. FDA–2023–N–2058. Received applications 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 an application with confidential information that you do not wish to be made publicly available, submit your application 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 your application. 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. Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https:/*

www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.

Docket: For access to the docket, 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, between 9 a.m. and 4 p.m., Monday through Friday. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Compliance and Enforcement, Office of Policy, Compliance, and Enforcement, Office of Regulatory Affairs, Food and Drug Administration, at 240–402–8743, or *debarments@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On February 27, 2023, Mr. Funaro was convicted, as defined in section 306(l)(1) of the FD&C Act, in the U.S. District Court for the Western District of Michigan, when the court entered judgment against him for the offense conspiracy to launder money in violation of 18 U.S.C. 1956(h), 1956(a)(1)(A)(i), and 1956(a)(1)(B)(i). FDA's finding that debarment is appropriate is based on the felony conviction referenced herein.

The factual basis for this conviction is as follows: as contained in the indictment and plea agreement in Mr. Funaro's case, filed on March 1, 2022, and July 29, 2022, respectively, beginning in or about 2018 and continuing until in or about October 2021 several individuals ran a website, *www.ExpressPCT.com,* which sold misbranded prescription drugs as well as some Schedule III and Schedule IV controlled substances in the United States without requiring a prescription. The drugs were manufactured overseas and then shipped in bulk to the United States to domestic redistributors. The packages did not declare their illicit contents and instead took steps to conceal their true nature. Once the packages entered the United States, the redistributors sent the bulk orders to second tier U.S. based distributors who then finally shipped the drugs to the customers, making the purchasers think their drugs came from the United States and not from overseas. Part of Mr. Funaro's role in the scheme was to route some of the customer payments for the misbranded drugs made through *www.ExpressPCT.com* through a series of accounts in an effort to conceal the source of the funds. Mr. Funaro also converted proceeds into cryptocurrency which he used, in part, to pay redistributors of the misbranded drugs. Mr. Funaro also sent some of the funds to various pharmaceutical companies in India in order to purchase additional drugs and thus continue the scheme.

As a result of this conviction, FDA sent Mr. Funaro, by certified mail, on September 6, 2023, a notice proposing to debar him for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Funaro's felony conviction under Federal law for conspiracy to launder money in violation of 18 U.S.C. 1956(h), 1956(a)(1)(A)(i), and 1956(a)(1)(B)(i), was for conduct relating to the importation into the United States of any drug or controlled substance because he was involved in a scheme to illegally import and introduce misbranded prescription drugs into the United States. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Funaro's offense and concluded that the offense warranted the imposition of a 5-year period of debarment.

The proposal informed Mr. Funaro of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Funaro received the proposal and notice of opportunity for a hearing on September 11, 2023. Mr. Funaro failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment. (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. James Funaro has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Funaro is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Funaro is a prohibited act.

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27854 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2080]

Jeremy Walenty: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Jeremy Walenty for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Walenty was convicted of one felony count under Federal law for conspiracy to smuggle goods into the United States. The factual basis supporting Mr. Walenty's conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Walenty was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of October 15, 2023 (30 days after receipt of the notice), Mr. Walenty had not responded. Mr. Walenty's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is effective December 19, 2023.

ADDRESSES: Any application by Mr. Walenty for termination of debarment

under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted as follows:

Electronic Submissions

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. An application submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application 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 application, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

- *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 a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All applications must include the Docket No. FDA–2023–N–2080. Received applications 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 an application with confidential information that you do not wish to be made publicly available, submit your application 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 your application. 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. Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket, 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 between 9 a.m. and 4 p.m., Monday through Friday. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Compliance and Enforcement, Office of Policy, Compliance, and Enforcement, Office of Regulatory Affairs, Food and Drug Administration, at 240–402–8743, or *debarments@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if the FDA finds, as required by section 306(b)(3)(C) of the FD&C Act that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On February 24, 2023, Jeremy Walenty was convicted as defined in section 306(l)(1) of the FD&C Act in the U.S. District Court for Western District of Michigan when the court accepted his plea of guilty and entered judgment against him for the offense of conspiracy to smuggle goods into the United States in violation of 18 U.S.C. 371 and 545. The underlying facts supporting the conviction are as follows:

As contained in the indictment and plea agreement from Mr. Walenty's case, filed on March 1, 2022, and July 15, 2022, respectively, Brendon Gagne owned and operated *www.ExpressPCT.com,* which sold misbranded prescription drugs, obtained from overseas suppliers, and sold to customers in the United States without requiring a prescription. Mr. Walenty was recruited by Brendon Gagne to receive, repackage, and reship the misbranded prescription drugs he received from coconspirators outside of the United States that were purchased by customers on the website *www.ExpressPCT.com.* In Mr. Walenty's plea agreement he acknowledged that he knew that receiving and reshipping prescription drugs in this manner was illegal. Later on, Mr. Walenty also began receiving bulk shipments of prescription drugs from coconspirators in the U.S. which had originally been sent to these coconspirators from overseas suppliers. Mr. Walenty then would use these shipments to fulfill orders that customers had placed on *www.ExpressPCT.com,* without ever seeing a prescription from these customers. In exchange for Mr. Walenty's participation in the scheme, Mr. Walenty received monetary compensation.

As a result of this conviction, FDA sent Mr. Walenty, by certified mail, on September 6, 2023, a notice proposing to debar him for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Walenty's felony conviction under Federal law for conspiracy to smuggle goods into the United States in violation of 18 U.S.C. 371 and 545, was for conduct relating to the importation into the United States of any drug or controlled substance because he was involved in a scheme to illegally import and introduce prescription drugs into the United States. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Walenty's offense and concluded that the offense warranted the imposition of a 5 year period of debarment.

The proposal informed Mr. Walenty of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Walenty received the proposal and notice of opportunity for a hearing on September 15, 2023. Mr. Walenty failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any

contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Jeremy Walenty has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Walenty is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Walenty is a prohibited act.

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27855 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–5431]

Hospira, Inc., et al.; Withdrawal of Approval of Eight Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is withdrawing approval of eight abbreviated new drug applications (ANDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived the opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
ANDA 063081	Tobramycin Sulfate, Injectable, Equivalent to (EQ) 1.2 milligrams (mg) base/milliliters (mL), EQ 1.6 mg base/mL, EQ 80 mg base/100 mL.	Hospira, Inc., 275 North Field Dr., Building H1–3S, Lake Forest, IL 60045.
ANDA 063112	Tobramycin Sulfate, Injection, EQ 10 mg base/mL	Do.
ANDA 078907	Fentanyl Citrate, Troche/Lozenges, EQ 0.2 mg base, EQ 0.4 mg base, EQ 0.6 mg base, EQ 0.8 mg base, EQ 1.2 mg base, EQ 1.6 mg base.	SpecGx LLC, 385 Marshall Ave., Webster Groves, MO 63119.
ANDA 080629	Promethazine Hydrochloride (HCl), Injectable, 50 mg/mL	Watson Laboratories, Inc. (an indirect, wholly owned subsidiary of Teva Pharmaceuticals USA, Inc.), 400 Interpace Parkway, Building A, Parsippany, NJ 07054.
ANDA 091170	Zoledronic Acid, Injectable, EQ 4 mg base/5 mL	Breckenridge Pharmaceutical, Inc., 15 Massirio Dr., Suite 201, Berlin, CT 06037.
ANDA 201846	Azelastine HCl, Metered Spray, 0.2055 mg/spray	Apotex Corp, U.S. Agent for Apotex Inc., 2400 North Commerce Parkway, Suite 400, Weston, FL 33326.
ANDA 207698	Nevirapine Extended-Release Tablets, 400 mg	Aurobindo Pharma USA, Inc., U.S. Agent for Aurobindo Pharma Limited, 279 Princeton-Hightstown Rd., East Windsor, NJ 08520.
ANDA 208616	Nevirapine Extended-Release Tablets, 100 mg	Do.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of January 18, 2024. Approval of each entire application is withdrawn, including any strengths and dosage forms inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products listed in the table without an approved new drug application or ANDA violates sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d)). Drug products that are listed in the table that are in inventory on January 18, 2024 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27853 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0026]

Apothecon, et al.; Withdrawal of Approval of 103 New Drug Applications and 35 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** on February 11, 2009. The

document announced the withdrawal of approval of 103 new drug applications and 35 abbreviated new drug applications (ANDAs) from multiple applicants, withdrawn as of March 13, 2009. The document erroneously included ANDA 75–108. The correct ANDA is ANDA 76–108 for Amiodarone hydrochloride (HCl) injection, 50 milligrams (mg)/milliliter (mL), held by Hospira, Inc., 275 North Field Dr., Lake Forest, IL 60045–5046. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137, *Kimberly.Lehrfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 11, 2009 (74 FR 6896), appearing on page 6900 in FR Doc. E9–2901, the following correction is made:

On page 6900, in the table, in the first column, the Application No. for the entry for Amiodarone HCL Injection, 50 mg/mL held by Hospira Inc., 275 North Field Dr., Lake Forest, IL 60045–5046 is corrected to ANDA 76–108.

Dated: December 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27859 Filed 12–18–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0955–0019]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before February 20, 2024.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 264–0041 and *PRA@HHS.GOV*.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0955–0019 and project title for reference, to Sherrette A. Funn, email: *Sherrette.Funn@hhs.gov*, *PRA@HHS.GOV* or call (202) 264–0041 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: National Survey of Health Information Exchange Organizations (HIO).

Type of Collection: Revision of a previously approved collection.

OMB No.: 0955–0019.

Abstract: Under the Department of Health and Human Services, Office of National Coordinator for Health Information and Technology, Electronic health information exchange (HIE) was one of three goals specified by Congress in the 2009 Health Information Technology for Economic and Clinical Health (HITECH) Act to ensure that the $30 billion federal investment in certified electronic health records (EHRs) resulted in higher-quality, lower-cost care. Subsequent legislation and regulations have continued to prioritize the sharing of data electronically across EHRs and other health information systems. Health information exchange organizations (HIOs) play a pivotal role facilitating health information exchange across disparate providers, labs, pharmacies, public health departments, and others. This information collection request will gather data from HIOs across the nation through the administration of a survey of HIOs to generate the most current national statistics and associated actionable insights to inform policy efforts. The timely collection of national data from our survey will assess current capabilities of HIOs to support effective electronic information sharing within the U.S. healthcare system.

Since prior to HITECH there has been ongoing assessment of trends in the capabilities of HIOs to support clinical exchange through nationwide surveys of HIOs. These prior surveys and studies have collected data on organizational structure, financial viability, geographic coverage, scope of services, scope of participants, perceptions of information blocking, support for public health exchange, and participation in national networks and the Technical Exchange Framework and Common Agreement (TEFCA). Continuing the ongoing data collection will be useful to construct a current and comprehensive picture of HIOs' role in facilitating exchange and ensuring rapid access to important health care data and information when it matters most, including vital data to address public health emergencies.

The survey will collect data on HIO capabilities to support electronic health information exchange, their maturity, and challenges they face. There are five key areas that require assessment: (1) adoption of technical standards; (2) perceptions related to information blocking; (3) HIE coordination at the federal level; (4) public health data exchange; and (5) organizational demographics, including technical capabilities offered by HIOs and the challenges they face in supporting electronic health information exchange.

This is a 3-year request for OMB approval.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
	U.S. based public and private HIOs	100	1	45/60	75
Total			1		75

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2023–27868 Filed 12–18–23; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

RIN 0917–AA23

Reimbursement Rates for Calendar Year 2024

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: Notice is provided that the Director of the Indian Health Service (IHS) has approved the rates for inpatient and outpatient medical care provided by the IHS facilities for Calendar Year 2024.

SUPPLEMENTARY INFORMATION:

Background

The Director of the Indian Health Service (IHS), under the authority of sections 321(a) and 322(b) of the Public Health Service Act (42 U.S.C. 248 and 249(b)), Public Law 83–568 (42 U.S.C. 2001(a)), and the Indian Health Care Improvement Act (25 U.S.C. 1601 *et seq.*), has approved the following rates for inpatient and outpatient medical care provided by IHS facilities for Calendar Year 2024 for Medicare and Medicaid beneficiaries, beneficiaries of other federal programs, and for recoveries under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653). The inpatient rates for Medicare Part A are excluded from the table below. That is because Medicare inpatient payments for IHS hospital facilities are made based on the prospective payment system, or (when IHS facilities are designated as Medicare Critical Access Hospitals) on a reasonable cost basis. Since the inpatient per diem rates set forth below do not include all physician services and practitioner services, additional payment shall be available to the extent that those services are provided.

Inpatient Hospital Per Diem Rate (Excludes Physician/Practitioner Services)

Calendar Year 2024

Lower 48 States: $5,083.

Alaska: $4,326.

Outpatient per Visit Rate (Excluding Medicare)

Calendar Year 2024

Lower 48 States: $719.
Alaska: $1,060.

Outpatient per Visit Rate (Medicare)

Calendar Year 2024

Lower 48 States: $667.
Alaska: $961.

Medicare Part B Inpatient Ancillary Per Diem Rate

Calendar Year 2024

Lower 48 States: $963.
Alaska: $1,341.

Outpatient Surgery Rate (Medicare)

Established Medicare rates for freestanding Ambulatory Surgery Centers.

Effective Date for Calendar Year 2024 Rates

Consistent with previous annual rate revisions, the Calendar Year 2024 rates will be effective for services provided on or after January 1, 2024, to the extent consistent with payment authorities, including the applicable Medicaid State plan.

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2023–27815 Filed 12–18–23; 8:45 am]

BILLING CODE 4166–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number: USCG–2023–0922]

Designation of the New England Commission of Higher Education as a Designated Entity and Appointment of Dr. Amy Donahue as a Member of the Commission

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: The Coast Guard announces the designation of the New England Commission of Higher Education (NECHE) as a designated non-federal entity for the purposes of participation in its management by an authorized Coast Guard employee. Dr. Amy Donahue, the Provost of the Coast Guard Academy, has been authorizated to serve as a member of NECHE to provide oversight of, advice to, and coordination with, NECHE. Dr. Donahue will not participate in the day-to-day operations of NECHE.

DATES: The designation and authorization are effective on November 21, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0922 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 notice, call or email Comamnder Jeffrey G. Janaro, Coast Guard Academy, telephone 860–444–8255, email *jeff.g.janaro@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard announces the designation of the New England Commission of Higher Education (NECHE) as a ''designated entity'' under 10 U.S.C. 1589 and 1033. The Coast Guard also announces the participation of the Coast Guard Academy Provost Dr. Amy Donhue in the management of the entity as a Commisioner. Sections 1589 and 1033 allow the Secretary of the Department of Homeland Security to specify certain non-federal entities as ''designated entities'' in which a member of the armed forces or a civilian employee may be authorized to participate in a specific capacity. The Secretary delegated this authority to the Commandant of the Coast Guard through the Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3 (paragraph II.14).

A ''designated entity'' must meet the requirements of 10 U.S.C. 1033. In relevant part, section 1033 requires an entity to be a non-profit oganization and perform one of the statutorily enumerated functions, including accreditation of service academies and other schools of the armed forces. NECHE is a voluntary non-government association that provides accreditation to the U.S. Coast Guard Academy. Therefore, NECHE is an entity that may be designated under 10 U.S.C. 1033 and, in turn, 10 U.S.C. 1589.

Section 1589 also allows the Secretary concerned to authorize an employee, including a civilian officer, to participate, without compensation, in the managemenent of a designated entity for the purposes of oversight, advice to, and coordination with that designated entity. An employee's participation may not extend to the day to day operations of the entity. The Coast Guard Academy announces the authorization of Dr. Amy Donahue, the Provost of the Coast Guard Academy, to participate in the management of NECHE within limits of 10 U.S.C. 1033 and 10 U.S.C. 1589. Specifically, and in

accordance with 10 U.S.C. 1589, Dr. Donahue will serve in her official capacity, and without additional compensation, provide oversight, advice, and coordination with NECHE. Dr. Donahue's participation will not, however, extend to participation in the day-to-day operations of the NECHE.

The effective date of NECHE's designation and Dr. Donahue's authorization is November 21, 2023. This notice is issued under the authority in 10 U.S.C. 1033(c) and 1589(c).

E.J. Van Camp,

Captain, U.S. Coast Guard, Assistant Superintendent, U.S. Coast Guard Academy.

[FR Doc. 2023–27816 Filed 12–18–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Notice of Teleconference Meeting of the Exxon Valdez Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Department of the Interior, Office of the Secretary, is announcing that the Exxon Valdez Oil Spill (EVOS) Public Advisory Committee (PAC) will meet by video teleconference as noted below.

DATES: The virtual meeting will be held on January 22, 2024, at 9 a.m. to 12 p.m. Alaska time (AKT).

ADDRESSES: The meeting will be virtual only using the Microsoft Teams meeting platform. To view a tutorial on how to join a Teams meeting, please go to *https://support.microsoft.com/en-gb/office/join-a-meeting-in-microsoft-teams-1613bb53-f3fa-431e-85a9-d6a91e3468c9.*

The video feature will be turned off for all attendees except for the EVOS PAC, EVOS Trustee Council staff, presenters, and speakers during public comment to limit bandwidth use and maximize connectivity during the meeting. Please remain muted until you are called upon to speak.

Connect to meeting using Microsoft Teams link (video and audio):

Join on your computer, mobile app or room device

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OWZhMzRhYjYtMWRmZC00NDMyLWE2MjYtN2FlYjk3NDA3ZmNl%40thread.v2/0?context=%7b%22Tid%22%3a%2220030bf6-7ad9-42f7-9273-59ea83fcfa38%22%2c%22Oid%22%3a%220296e96a-c3e4-44e8-85f8-0d37aca5a92f%22%7d

Meeting ID: 295 318 667 17

Passcode: 6w862W

Join with a video conferencing device

260748889@t.plcm.vc, Video Conference ID: 116 345 794 2, Alternate VTC instructions

Or call in (audio only)

+1 907–202–7104,853894310# United States, Anchorage, Phone Conference ID: 853 894 310#, Find a local number | Reset PIN

Please check the EVOS Trustee Council website for updates regarding the virtual meeting at *http://evostc.state.ak.us/.*

FOR FURTHER INFORMATION CONTACT: Grace Cochon, Department of the Interior, Office of Environmental Policy and Compliance, telephone number: (907) 786–3620; email: *grace_cochon@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: The EVOS PAC was created pursuant to Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The EVOS PAC advises the EVOS Trustee Council on decisions relating to the allocation of settlement funds for restoration, monitoring, and other activities related to the oil spill.

The EVOS PAC meeting agenda will include discussion of the Gulf Watch Alaska Long-Term Research and Monitoring Program's budget reallocation proposal. An opportunity for public comments will be provided. The final agenda and materials for the meeting will be posted on the EVOS Trustee Council website at *http://evostc.state.ak.us.* All EVOS PAC meetings are open to the public.

Public Input

Interested persons may choose to make oral comments at the meeting during the designated time. Depending on the number of people wishing to comment and the time available, the amount of time for oral comments may be limited. Interested parties should contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) for advance placement on the public speaker list for this meeting.

Meeting Accessibility/Special Accommodations: The meeting is open to the public. Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the (see **FOR FURTHER INFORMATION CONTACT**) section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

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

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the EVOS PAC to consider during the public meeting. Written statements must be received by January 12, 2024, so that the information may be made available to the EVOS PAC for their consideration prior to this meeting. Written statements must be supplied to the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) and/or in writing in the following formats: A hard copy with original signature and/or an electronic copy (acceptable file formats are Adobe Acrobat PDF, MS Word, or rich text file).

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

Lisa Fox,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2023–27865 Filed 12–18–23; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[234XD0102DM; DS6CS00000; DLSN00000.000000; DX.6CS25; OMB Control Number 1090–0012]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

AGENCY: Department of the Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Department of the Interior are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 18, 2024.

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 Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to *DOI-PRA@ios.doi.gov.* Please reference OMB Control Number 1090–0012 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; or by email to *DOI-PRA@ios.doi.gov,* or by telephone at 202–208–7072. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 11, 2023 (88 FR 30337). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Agency will collect, analyze, and interpret information gathered through this generic clearance to identify High Impact Service Providers' accessibility, navigation, and use by customers, and make improvements in service delivery based on customer insights gathered through developing an understanding of the user experience interacting with Government.

For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor.

''Service delivery'' or ''services'' refers to the multitude of diverse interactions between a customer and Federal agency such as applying for a benefit or loan, receiving a service such as healthcare or small business counseling, requesting a document such as a passport or social security card, complying with a rule or regulation such as filing taxes or declaring goods, utilizing resources such as a park or historical site, or seeking information such as public health or consumer protection notices.

Under this request, three types of activities will be conducted to generate customer insights:

Customer Research (User Persona and Journey Map Development): A critical first component of understanding customer experience is to develop customer personas and journey maps. This process enables the Agency to more deeply understand the customer segments they serve and to organize the processes customers interact with throughout their engagement with the Federal entity to accomplish a task or meet a need. In order to adequately capture the perspective of the customer and the barriers or supports that exist as they navigate these journeys, it is necessary to directly interact with customers rather than relying solely upon the Agency's stated policy of how a process should work or employees' interpretation of how services are delivered. This can occur through a variety of information collection mechanisms that include focus groups, individual intercept interviews at a service site, shadowing a user as they navigate a Federal service and documenting their reactions and frustrations, customer free-response comment cards, or informal small discussion groups.

Regardless of the format, the Agency will apply Human Centered Design (HCD) Discovery methods to generate personas and journey maps, ultimately identifying customer insights. An approach to recruiting participants, resources for preparing and structuring interviews, and a consent form for interviewees can be found at *https://www.gsa.gov/cdnstatic/HCD-Discovery-Guide-Interagency-v12-1.pdf.* This document is also included in the package.

Insights documented, summarized and presented in customer personas and

journey maps can then be shared across the program, the Agency, other Federal, State, and Local government stakeholders and even with the public to validate and discuss common themes identified. These products can be used as ''indicator lights'' for where more rigorous qualitative and quantitative research can be conducted to improve Federal service delivery.

Publicly shared personas and journey maps will include language that qualifies their use (see question #16), and high-level, non-identifying descriptive statistics of the population(s) interviewed to develop it (ex. ''25 Service members that transitioned to civilian employment within the last decade, 14 female, 11 male, 21 enlisted and 4 officers) to ensure that the perspective represented is understood. Quotes or insights will never be associated with an actual individual unless they have signed a release form (see link above for template) and this was included in the specific collection request.

Customer Feedback (Satisfaction Survey): Surveys to be considered under this generic clearance will only include those surveys modeled on the OMB Circular A–11 CX Feedback survey to improve customer service by collecting feedback at a specific point during a customer journey. This could include upon submitting a form online on a Federal website, speaking with a call center representative, paying off a loan, or visiting a Federal service center.

In an effort to develop comparable, government-wide scores that will enable cross-agency or industry benchmarking (when relevant) and a general indication of an agency's overall customer satisfaction, High Impact Service providers must refer to OMB Circular A–11 Section 280 for required survey question wording and organization.

As part of the Customer Experience CAP goal's strategy to increase transparency to drive accountability, the feedback data collected through the A–11 Standard Feedback survey is meant to be shared with the public. This collection is part of the government-wide effort to embed standardized customer metrics within high-impact programs to create government-wide performance dashboards. Data collected from the questions listed above will be submitted by the Agency to OMB quarterly for updating of customer experience dashboards on performance.gov. This dashboard will also include the total volume of customers that passed through the transaction point at which the survey was offered, the number of customers the survey was presented to, the number of responses, and the mode of presentation and response (online survey, in-person, post-call touchtone, mobile, email). This will help to qualify the data's representation by showing both the response rate and total number of actual responses.

User Testing of Services and Digital Products: Agencies should continually review, update and refine their service delivery, including communication materials, processes, supporting reference materials, and digital products associated with a Federal program. This often requires ''field testing'' program informational materials, process updates, forms, or digital products (such as websites or mobile applications) by interacting with past, existing, or future customers and soliciting feedback. These activities can include cognitive laboratory studies, such as those used to refine questions on a program form to ensure clarity, demo kiosks at a service center where customers can provide informal feedback while waiting for a service, or more formally scheduled in-person observation testing (*e.g.,* website or software usability tests). These information collection activities are more specific than broad customer research and related to a particular artifact/product of a Federal program. As such, there will be a more structured interview/set of questions than more open-ended customer research. Findings from these activities are meant to support the design and implementation of Federal program services and digital products, and may only be shared in an anonymized/in aggregate if a particular insight is useful to include as part of a customer persona, journey map, or common lesson learned for improving service delivery.

The Agency will only submit under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes
- The agency will follow the procedures specified in OMB Circular A–11 Section 280 for the required quarterly reporting to OMB of trust data and experience driver data from surveys.
- Outside of the quarterly reporting mentioned in the bullet immediately above, if the agency intends to release journey maps, user personas, reports, or other data-related summaries stemming from this collection, the agency must include appropriate caveats around those summaries, noting that conclusions should not be generalized beyond the sample, considering the sample size and response rates. The agency must submit the data summary itself (*e.g.,* the report) and the caveat language mentioned above to OMB before it releases them outside the agency. OMB will engage in a passback process with the agency.

This clearance will help the Agency to establish a process where customer experience is regularly monitored and measured. The results will assist the Agency in the planning and decision-making processes to improve the quality of the Agency's products and services.

Results from feedback activities and surveys will be used to measure against established baseline standards and for measuring the Agency's progress toward defined goals.

Title of Collection: Improving Customer Experience (OMB Circular A–11, Section 280 Implementation).

OMB Control Number: 1090–0012.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Total Estimated Number of Annual Respondents: 146,384.

Total Estimated Number of Annual Responses: 146,384.

Estimated Completion Time per Response: Varied, dependent upon the possible response time to complete a questionnaire or survey may be 3 minutes up to 90 minutes to participate in an interview based on the data collection method used.

Total Estimated Number of Annual Burden Hours: 13,876.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jeffrey Parrillo,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–27827 Filed 12–18–23; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037091; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Nevada, Las Vegas, Las Vegas, NV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Nevada, Las Vegas has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any Indian Tribe. The human remains and associated funerary objects were removed from unknown locations.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Dr. Daniel Benyshek, University of Nevada, Las Vegas, 4505 S. Maryland Parkway, Las Vegas, NV 89154 telephone (702) 895–2070, email *Daniel.Benyshek@unlv.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Nevada, Las Vegas. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of Nevada, Las Vegas.

Description

Human remains representing, at minimum, nine individuals were removed from unknown locations, identified by the following accession numbers AHUR 33 (Unknown Site), AHUR 71 (Unknown Site), AHUR 132 (Unknown Site), AHUR 134A (Unknown Site), AHUR 134B (Unknown Site), AHUR 145 (Unknown Site), AHUR 147X (Unknown Site), AHUR 1280 (Unknown Site), FHUR 16 (Unknown Site), and FHUR 70 (Unknown Site). The six associated funerary objects include pottery sherds, a worked stick, matting, leather, and beads.

Aboriginal Land

Based on the collection history of the University of Nevada, Las Vegas, the human remains and associated funerary objects were likely removed from the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a final judgment of the Indian Claims Commission.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the University of Nevada, Las Vegas has determined that:

- The human remains described in this notice represent the physical remains of nine individuals of Native American ancestry.
- The six objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects described in this notice were likely removed from the aboriginal land of the Absentee-Shawnee Tribe of Indians of Oklahoma; Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Ak-Chin Indian Community; Alturas Indian Rancheria, California; Bear River Band of the Rohnerville Rancheria, California; Berry Creek Rancheria of Maidu Indians of California; Big Sandy Rancheria of Western Mono Indians of California; Bishop Paiute Tribe; Bridgeport Indian Colony; Buena Vista Rancheria of Me-Wuk Indians of California; Cabazon Band of Cahuilla Indians (*Previously* listed as Cabazon Band of Mission Indians, California); Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Cahto Tribe of the Laytonville Rancheria; Cahuilla Band of Indians; California Valley Miwok Tribe, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Captain Grande Band of Diegueno Mission Indians of California (Barona Group of Captain Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Captain Grande Band of Mission Indians of the Viejas Reservation, California); Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Cloverdale Rancheria of Pomo Indians of California; Cocopah Tribe of Arizona; Cold Springs Rancheria of Mono Indians of California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Dry Creek Rancheria Band of Pomo Indians, California; Eastern Shoshone Tribe of the Wind River Reservation, Wyoming; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Elk Valley Rancheria, California; Ely Shoshone Tribe of Nevada; Enterprise Rancheria of Maidu Indians of California; Ewiiaapaayp Band of Kumeyaay Indians, California; Federated Indians of Graton Rancheria, California; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Fort McDowell Yavapai Nation, Arizona; Fort Mojave Indian Tribe of Arizona, California & Nevada; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Havasupai Tribe of the Havasupai Reservation, Arizona; Hoopa Valley Tribe, California; Hopi Tribe of Arizona; Hopland Band of Pomo Indians, California; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians; Jamul Indian Village of California; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Karuk Tribe; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California;

Kickapoo Tribe of Oklahoma; Klamath Tribes; Koi Nation of Northern California; La Jolla Band of Luiseno Indians, California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-Shoshone Tribe; Los Coyotes Band of Cahuilla and Cupeno Indians, California; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester Rancheria, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mechoopda Indian Tribe of Chico Rancheria, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Middletown Rancheria of Pomo Indians of California; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Mooretown Rancheria of Maidu Indians of California; Morongo Band of Mission Indians, California; Navajo Nation, Arizona, New Mexico, & Utah; Northfork Rancheria of Mono Indians of California; Northwestern Band of the Shoshone Nation; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pala Band of Mission Indians; Pascua Yaqui Tribe of Arizona; Paskenta Band of Nomlaki Indians of California; Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Indians (*Previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California); Picayune Rancheria of Chukchansi Indians of California; Pinoleville Pomo Nation, California; Pit River Tribe, California (Includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek, and Roaring Creek Rancherias); Potter Valley Tribe, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Quartz Valley Indian Community of the Quartz Valley Reservation of California; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Ramona Band of Cahuilla, California; Redding Rancheria, California; Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria, California; Reno-Sparks Indian Colony, Nevada; Resighini Rancheria, California; Rincon Band of Luiseno Indians (*Previously* listed as Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California); Robinson Rancheria; Round Valley Indian Tribes, Round Valley Reservation, California; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; San Pasqual Band of Diegueno Mission Indians of California; Santa Rosa Band of Cahuilla Indians, California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California; Scotts Valley Band of Pomo Indians of California; Shoshone-Bannock Tribes of the Fort Hall Reservation; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Skull Valley Band of Goshute Indians of Utah; Soboba Band of Luiseno Indians, California; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Sycuan Band of the Kumeyaay Nation; Table Mountain Rancheria; Tejon Indian Tribe; Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Band); Timbisha Shoshone Tribe; Tohono O'odham Nation of Arizona; Tolowa Dee-ni' Nation; Tonto Apache Tribe of Arizona; Torres Martinez Desert Cahuilla Indians, California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; Twenty-Nine Palms Band of Mission Indians of California; United Auburn Indian Community of the Auburn Rancheria of California; Ute Indian Tribe of the Unitah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches); White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Wilton Rancheria, California; Winnemucca Indian Colony of Nevada; Wiyot Tribe, California; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Indian Tribe; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; Yocha Dehe Wintun Nation, California; Yomba Shoshone Tribe of the Yomba Reservation, Nevada; Yuhaaviatam of San Manuel Nation (*Previously* listed as San Manuel Band of Mission Indians, California); and the Yurok Tribe of the Yurok Reservation, California.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after January 18, 2024. If competing requests for disposition are received, the University of Nevada, Las Vegas must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Nevada, Las Vegas is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27797 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037093; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the American Museum of Natural History (AMNH) has completed an inventory of human remains and associated funerary

objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Queens County, NY.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Nell Murphy, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of AMNH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by AMNH.

Description

In 1900, human remains representing, at minimum, one individual were removed from Astoria, South of Bittner's Beside Trolley Road From 92st Ferry, Queens County, NY, by M. Raymond Harrington as part of an AMNH funded expedition. The human remains were accessioned that same year. The eight associated funerary objects include one bone awl, one potential hammerstone, one lot of pot sherds, one lot of stones, one lot of animal bones, one lot of charcoal, one lot of shells, and one lot of fish bones.

In 1923, human remains representing, at minimum, one individual were removed from Jamaica, Aqueduct, 250 Ft. East of Public School Near Old South Road, Queens County, NY. The human remains were accessioned that same year as a gift from Eugene Gellot. The one associated funerary object is one lot of animal bone.

In an unknown year, human remains representing, at minimum, one individual were removed from Far Rockaway, Forest and Cornegan Ave, Queens County, NY, by an unknown person while excavating for a building. The human remains were accessioned in 1939 as a gift from Mervin Rosenberg. No associated funerary objects are present.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical, historical, and linguistics information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, AMNH has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The nine objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, AMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. AMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27799 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037084; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: South Carolina Institute of Archaeology and Anthropology, University of South Carolina, Columbia, SC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the South Carolina Institute of Archaeology and Anthropology (SCIAA) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Oconee County, SC.

DATES: Repatriation of the cultural items in this notice may occur on or after January 18, 2024.

ADDRESSES: Nina Schreiner, South Carolina Institute of Archaeology and Anthropology (SCIAA), College of Arts and Sciences, University of South Carolina, 1321 Pendleton Street, Columbia, SC 29208, email *Schreinn@email.sc.edu*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SCIAA. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the SCIAA.

Description

In 1957, the two cultural items were removed from site 38OC55, Rock Cairn,

Oconee County, SC, by Mr. Marshall W. Williams. Williams transferred the items to SCIAA in 1970. The two unassociated funerary objects are one lot metal objects and one lot mixed material beads.

In 1970, an additional cultural item was removed from the same site, 38OC55, by Mr. John D. Combes of SCIAA, during the Keowee Toxaway Reservoir salvage excavations conducted by SCIAA for Duke Power Company of Charlotte, NC. The one unassociated funerary object is one lot of ceramic objects.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the SCIAA has determined that:

- The three cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the SCIAA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The SCIAA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27792 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037080; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: The University of Kansas, Lawrence, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Kansas intends to repatriate a certain cultural item that meets the definition of a sacred object and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural item was removed from Sonora, Mexico.

DATES: Repatriation of the cultural item in this notice may occur on or after January 18, 2024.

ADDRESSES: Dr. Thomas Torma, NAGPRA Program Manager, The University of Kansas, Office of Audit, Risk & Compliance, 1450 Jayhawk Boulevard, 351 Strong Hall, Lawrence, KS 66045, telephone (406) 850–2220, email *t-torma@ku.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Kansas. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the University of Kansas.

Description

The one cultural item was removed from Sonora, Mexico, at an unknown time. The item is a Pascola Mask, used by the Yaqui people during Holy Week celebrations. The mask was collected by J. Cotter Hirschberg, M.D. at an unknown date. In December 1967, Dr. Hirschberg donated the mask to the Museum and Archives Division of the Menninger Foundation, a psychiatric facility located in Topeka at that time. The mask was received at Kansas University Museum of Anthropology (KUMA) as a donation from the Menninger Foundation in 1993. KUMA closed to the public in August 2002. In July of 2005, the collections were renamed the Anthropological Research and Cultural Collections (ARCC). In January of 2007, the collection was transferred from the ARCC to the Spencer Museum of Art. The one sacred object is a Yaqui Pascola Mask.

Cultural Affiliation

The cultural item in this notice is connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, folklore, geographical information, historical information, kinship, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of Kansas has determined that:

- The one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- There is a relationship of shared group identity that can be reasonably traced between the cultural item and the Pascua Yaqui Tribe of Arizona.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this

notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the University of Kansas must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The University of Kansas is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27790 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037094; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the American Museum of Natural History (AMNH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Nassau and Queens Counties, NY.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Nell Murphy, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of AMNH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by AMNH.

Description

In 1947, human remains representing, at minimum, two individuals were collected from Douglaston, 338 Bayview Avenue, Hanan Site, Queens County, NY, by Carlyle Smith. The human remains were accessioned that same year as a gift from Mrs. L.F. Hanan. The human remains appear to date to the Late Woodland Period (A.D.1100-contact). No associated funerary objects are present.

In an unknown year, human remains representing, at minimum, one individual were removed from Douglaston, Douglas Manor, NW Corner of Hillside Ave and Centre? Drive, Queens County, NY. The human remains were accessioned in 1924 as a gift from Mr. Lewis Walker. No associated funerary objects are present.

In November 1923, human remains representing, at minimum, four individuals were removed either by Dr. Thomas H. Evans or Nels Nelson from Malba, Corner of Parsons Boulevard and Tenth Avenue, Roe-Powell Place, Old Burial Grounds, Queens County, NY. These human remains were loaned to AMNH by Queens Borough President Maurice E. Connolly and then accessioned in 1927. These human remains appear to date to the Early Historic Period. No associated funerary objects are present.

In what is likely to be 1935, human remains representing, at minimum, one individual were removed from Seaford Vicinity, Fort Neck, Nassau County, NY, by Mr. William Claude. The Museum accessioned these human remains in 1935 as a gift. No associated funerary objects are present.

In an unknown year, human remains, representing, at minimum, one individual were removed from Glen Cove, Nassau County, NY. The Museum accessioned these human remains in 1915 as a gift from Mr. James G. Price. The human remains are likely Late Woodland or Early Contact period in age. No associated funerary objects are present.

In 1901, human remains, representing, at minimum, five individuals were removed from Dosoris, Glen Cove Vicinity, Nassau County, NY, by Mark Harrington as part of an expedition. The human remains were accessioned that same year. The human remains are likely Late Woodland or Early Contact period in age. No associated funerary objects are present.

In 1899, human remains, representing, at minimum, 35 individuals were removed from Port Washington, Goodwin Sandworks Property, Nassau County, NY, by Mark Harrington as part of an expedition. The Museum accessioned these human remains in 1900. The 49 associated funerary objects include four dog skeletons; one lot of nut shells; one stone implement; two broken awls; one lot of sherds and fragment of decorated pot; one lot of awls, turtle shell vessel and pipe stem; one lot of net sinkers and concretion chips; one small notched bone needle; one lot animal and bird bones with charcoal; three lots of shells; one lot of animal bones, teeth, shells, stone and sherds; one lot of potsherds with hickory nut shell; one lot of potsherds, animal and fish bones and chip; one lot of net sinkers with bone needle; one lot of lithic debitage, shells, firestone and net sinker; one lot of bone awls and a broken antler handle; one lot of chips, shells with stone pestle; three lots of pot sherds; two jasper chips; three hammerstones; one chert arrowpoint; one lot of shell beads; three lots of faunal material; nine lots of mixed potsherds and faunal material; and four lots of mixed sherds and stone tools.

In 1899, human remains, representing, at minimum, three individuals were removed from Port Washington, West End of Goodwin Sandworks Property, ''Burial Hill,'' Nassau County, NY, by Mark Harrington as part of an expedition. The Museum accessioned these human remains in 1900. The one associated funerary object is a wolf jaw.

In 1899, human remains, representing, at minimum, five individuals were removed from ½ mile north of Port Washington, Near Creek, Village, Nassau County, NY, by Mark Harrington. The Museum accessioned these human remains in 1899 as a gift from Harrington. The five associated funerary objects include one pot sherd, one lot of decorated pot shreds, one large cord marked pot fragment, one lot of small cord marked fragments, and one lot of turtle shell pieces.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, geographical information, historical information, kinship, linguistics.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, AMNH has determined that:

- The human remains described in this notice represent the physical remains of 57 individuals of Native American ancestry.
- The 55 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; Shinnecock Indian Nation; and the Stockbridge Munsee Community, Wisconsin.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, AMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. AMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27800 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037075; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Grand Rapids Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Grand Rapids Public Museum, Michigan has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from San Joaquin County, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Alex Forist, Chief Curator, Grand Rapids Public Museum. 272 Pearl Street NW, Grand Rapids, MI 49504, telephone (616) 929–1809, email *aforist@grpm.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Grand Rapids Public Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Grand Rapids Public Museum.

Description

Human remains representing, at minimum, two individuals were removed from San Joaquin County, CA. In the early 1880s, Mr. E. D. Zimmerman, an amateur archeologist, excavated a burial mound at the Leon Ranch in Stockton. At an unknown date, these human remains (and associated funerary objects) were purchased by Herman J. Rush (b. 1902—d. 1965), a collector from Belvidere, New Jersey from a sale of Zimmerman's collection. In the 1960s, Dr. Ruth Herrick, a collector in Grand Rapids, Michigan, purchased these human remains (and associated funerary objects) from Rush, and in 1974, the Grand Rapids Public Museum acquired them from Herrick by bequest. The human remains consist of one glass vial containing cremated human hair and one vial containing cremated cerebral matter. The 18 associated funerary objects are one burned shell, one lot consisting of cremated seeds, one lot consisting of burned pinon nuts, two lots consisting of wampum, one vial containing vermillion, one lot consisting of red paint, one lot consisting of burned beads, one bone gouge, one awl, one shell pendant, one Medicine Man's hollow bone tube, one hollow bone tube, one spear, three bone fish skewers, and one bone fish gorge.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, historical, and oral traditional.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Grand Rapids Public Museum has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The 18 objects described in this notice are reasonably believed to have

been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California; Ione Band of Miwok Indians of California; Middletown Rancheria of Pomo Indians of California; Picayune Rancheria of the Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria, California; and the Wilton Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice and, if joined to a request from one or more of the Indian Tribes, the Muwekma Ohlone Indian Tribe of the SF Bay Area, California; Nashville Enterprise Miwok-Maidu-Nishinam Tribe, California; North Valley Yokuts Tribe, California; Wuksache Indian Tribe/Eshom Valley Band, California; and the Confederated Villages of Lisjan Nation.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the Grand Rapids Public Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Grand Rapids Public Museum is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27788 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037079; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Grand Rapids Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Grand Rapids Public Museum has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Lee County, FL.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Alex Forist, Chief Curator, 272 Pearl Street NW, Grand Rapids, MI 49504, telephone (616) 929–1809, email *aforist@grpm.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Grand Rapids Public Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Grand Rapids Public Museum.

Description

At an unknown date, human remains representing, at minimum, four individuals were removed from Lee County, FL. At an unknown date, Dr. J.W. Velie, a medical professional and professor who lived in St. Joseph, MI, and wintered in Florida reportedly purchased the human remains and artifact from an unknown individual that were said to have been found in a grave in 1880. From 1870 to 1893, Velie was employed as an assistant curator for the Academy of Science in Chicago, IL, and following the Great Chicago Fire, he conducted field work in Cuba, Florida, and the Yucatan to collect specimens to help rebuild the Academy's collections. The Grand Rapids Public Museum acquired the human remains and funerary object from Velie in 1909. The age of the human remains is unknown. The one associated funerary object is an ornamental metal coin piece that has been hammered and has punched holes.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, geographical information, oral history, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Grand Rapids Public Museum has determined that:

• The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.

• The one object described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Miccosukee Tribe of Indians; Seminole Tribe of Florida; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the Grand Rapids Public Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Grand Rapids Public Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27789 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037089; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: California State University, Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), California State University, Los Angeles has amended a Notice of Inventory Completion published in the **Federal Register** on August 28, 2023. This notice amends the number of associated funerary objects in a collection removed from Clark County, NV.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Michele Bleuze, California State University, 5151 State University Drive, Los Angeles, CA 90032, telephone (323) 343–2440, email *mbleuze@calstatela.edu* and Amira Ainis, California State University, 5151 State University Drive, Los Angeles, CA 90032, telephone (323) 343–2449, email *aainis2@calstatela.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California State University, Los Angeles. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the California State University, Los Angeles.

Amendment

This notice amends the determinations published in a Notice of Inventory Completion in the **Federal Register** (88 FR 58605–58606, August 28, 2023). Repatriation of the items in the original Notice of Inventory Completion has not occurred. This notice amends the number of associated funerary objects as listed in the original notice. Upon the rehousing of ancestors at the request of the Indian Tribes, additional associated funerary objects were discovered.

From the CK2003 Mill Point #1 site (also referred to as the Fremont Point site) in Clark County, NV, the two associated funerary objects (no associated funerary objects were previously listed) include one bird humerus and one chipmunk or ground squirrel distal left tibia. Both associated funerary objects were found with Burial 2.

Determinations (as Amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the California State University, Los Angeles has determined that:

- The human remains represent the physical remains of two individuals of Native American ancestry.
- The two associated funerary objects described in this amended notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Confederated Tribes of the Warm Springs Reservation of Oregon; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort Mojave Indian Tribe of Arizona, California, and Nevada; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; and the 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).

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the California State University, Los Angeles must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The California State University, Los Angeles is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, 0.13, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27795 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037086; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: South Carolina Institute of Archaeology and Anthropology, University of South Carolina, Columbia, SC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the South Carolina Institute of Archaeology and Anthropology (SCIAA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Chester, Fairfield, Kershaw, Orangeburg, and Unknown Counties, SC.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Nina Schreiner, South Carolina Institute of Archaeology and Anthropology (SCIAA), College of Arts and Sciences, University of South Carolina, 1321 Pendleton Street, Columbia, SC 29208, email *Schreinn@email.sc.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SCIAA. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the SCIAA.

Description

In 1971, human remains representing, at minimum, one individual were removed from site 38CS2, Turkey Creek/McCollum Mound, Chester County, SC, by Mr. Thomas M. Ryan of SCIAA, with permission of property owner, Lockhart Power Company of Lockhart, SC. The four funerary objects are one lot consisting of shell material, one lot consisting of faunal material, one lot consisting of ceramic material, and one lot consisting of lithic material.

At an unknown date, human remains representing, at minimum, two individuals were removed from the same site, 38CS2, Chester County, SC, by Mr. John R. Hart and Boy Scout Troop 35 of York, SC. Hart transferred the collection to SCIAA in 1980. The three funerary objects are one lot consisting of charcoal, one lot consisting of lithic material, and one lot consisting of faunal material.

In 1992, human remains representing, at minimum, three individuals were removed from site 38FA204/205, Bear Creek, Fairfield County, SC, by Southeastern Archaeological Services (SAS), Inc., of Athens, Georgia under contract with Kennecott-Ridgeway Mining Company of Ridgeway, South Carolina. SAS transferred them to SCIAA in 1994. The one associated funerary object is one lot consisting of lithic material.

In 1985, human remains representing, at minimum, one individual were removed from site 38KE11, Adamson Mounds, Kershaw County, SC, by Dr. Chester B. DePratter and Mr. Christopher Judge of the Department of Anthropology, University of South Carolina, Columbia with permission of the property owner. The Department of Anthropology transferred them to SCIAA in 1988. The three funerary objects are one lot consisting of faunal material, one lot consisting of lithic material, and one lot consisting of ceramic material.

In 1951–52, one associated funerary object, a ceramic urn was removed from site 38KE11, Adamson Mounds, Kershaw County, SC, by an unknown individual and given to Mr. George Stuart, graduate student at the University of North Carolina at Chapel Hill (UNC–CH). Stuart transferred the object to UNC–CH Research Labs of Archaeology (RLA) in 1975. Stuart acquired three additional associated funerary objects, one lot consisting of ceramic material, one lot consisting of shell material, and one lot consisting of lithic material, from 38KE11 at an unknown date and transferred them to RLA in 2012. RLA transferred the four associated funerary objects to SCIAA in 2023 to facilitate consultation and repatriation pursuant to, and in accordance with, the Native American Graves Protection and Repatriation Act.

In 1991, human remains representing, at minimum, 23 individuals were removed from site 38KE18, Ferry Landing, Kershaw County, SC, by Dr. Chester B. DePratter and Dr. Ted A. Rathbun of SCIAA and the Department of Anthropology, University of South Carolina, Columbia with permission of the property owner. The five associated funerary objects are one lot consisting of ceramic material, one lot consisting of lithic material, one lot consisting of shell material, one lot consisting of botanical material, and one lot consisting of soil.

In 1986, human remains representing, at minimum, one individual were removed from site 38OR122, SCHD Orangeburg 7, Orangeburg County, SC, by Ms. Olga Caballero of the South Carolina Department of Highways and Public Transportation during the U.S. 21 Borrow Pit Nos. 1 and 2 investigations. SCHDPT transferred the collection to SCIAA in 1987. No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, one individual were removed from an unknown location in South Carolina by unknown means. The date of SCIAA acquisition is unknown. No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, four individuals were removed from an unknown location by unknown means. In 1976, the estate of Mr. John A. May of Aiken, SC transferred them to the South Carolina State Museum in Columbia, SC. The State Museum transferred them to SCIAA in 1994. No associated funerary objects are present.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the SCIAA has determined that:

- The human remains described in this notice represent the physical remains of 36 individuals of Native American ancestry.

• The 20 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Catawba Indian Nation; Cherokee Nation; Eastern Band of Cherokee Indians; The Muscogee (Creek) Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the SCIAA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The SCIAA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27793 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037101; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Voyageurs National Park, International Falls, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), U.S. Department of the Interior, National Park Service, Voyageurs National Park (VOYA) has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from St. Louis County, MN.

DATES: Disposition of the human remains in this notice may occur on or after January 18, 2024.

ADDRESSES: Bob DeGross, Superintendent, Voyageurs National Park, 360 Hwy. 11 East, International Falls, MN 56649, telephone (218) 283–6600, email *bob_degross@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, VOYA. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by VOYA.

Description

Human remains representing, at minimum, three individuals were removed from St. Louis County, MN. The human remains were excavated by the National Park Service from a bundle burial on Wigwam Island (site 21SL183) that had been exposed due to erosion. Three individuals were identified, two adults and a child. The burial is dated as Middle to Late Woodland (200 BC—A.D. 1650). The thermoluminescence date for a fabric impressed body sherd recovered near, but not within, the burial is A.D. 1360 plus or minus 100 years. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a treaty.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, VOYA has determined that:

• The human remains described in this notice represent the physical remains of at least three individuals of Native American ancestry.

• No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.

• The human remains described in this notice were removed from the aboriginal land of the Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake)).

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after January 18, 2024. If competing requests for disposition are received, VOYA must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. VOYA is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and § 10.11.

Dated: December 11, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27804 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037074; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Binghamton University, State University of New York, Binghamton, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Binghamton University, State University of New York (SUNY Binghamton) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Tioga County, NY.

DATES: Repatriation of the human remains in this notice may occur on or after January 18, 2024.

ADDRESSES: Laurie Miroff, Public Archaeology Facility, Binghamton University, P.O. Box 6000, Binghamton, NY 13902–6000, telephone (607) 777–4786, email *lmiroff@binghamton.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of SUNY Binghamton. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by SUNY Binghamton.

Description

Human remains representing, at minimum, one individual were removed from the Engelbert Site, Tioga County, NY, and were recently discovered in the office of a retired faculty member at Binghamton University. The Engelbert site was excavated in 1967 and 1968 during salvage excavations that were part of gravel mining for construction of the Southern Tier Expressway (NY 17 now I–86). The new individual (Burial 96B, Feature 682) represents the partial remains of a young male, aged approximately 17 years old. Burial 96 was a double burial (96A and 96B). The human remains for 96A and the associated funerary objects for the entire burial were repatriated to the Onondaga Nation of the Haudenosaunee Confederacy in September 2009 (see 74 FR 28945–28946, June 18, 2009).

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one Indian Tribe. The following types of information were used to reasonably trace the relationship: oral history, geography, linguistics, material culture, and kinship.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, SUNY Binghamton has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Onondaga Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, SUNY Binghamton must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. SUNY Binghamton is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27787 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037096; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Sam Noble Oklahoma Museum of Natural History, University of Oklahoma (SNOMNH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from LeFlore County, OK.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Dr. Marc Levine, Associate Curator of Archeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email *mlevine@ou.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SNOMNH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the SNOMNH.

Description

In 1941, human remains representing, at minimum, 94 individuals were removed from the Hooks site (34Lf19) in LeFlore County, OK. Located southwest of Fanshawe, OK, the site was excavated by the Works Progress Administration

(WPA) in 1941, and the associated finds were transferred to the SNOMNH (formerly known as the Stovall Museum of Science and History) that same year. The human remains and associated funerary objects from site 34Lf19 were interred during the Woodland Period (300 BC–A.D. 900). The human remains consist of, at minimum, 47 adult males, 15 adult females, 15 adults of indeterminate sex, and 17 children ranging in age from fetal to adolescent. The 174 associated funerary objects are one undecorated ceramic pot, one decorated potsherd, 10 undecorated potsherds, three stone knives, one Gary type projectile point, 50 projectile points, one scraper, one flake, five bone awls, three bone pins, one bone awl tip, one horn atlatl, five modified animal bones, 58 unmodified animal bones, 21 shell beads, one shell gorget, one modified shell, four stone double bit axes, one stone gorget, one stone gorget fragment, three groundstone fragments, and one paint stone.

In 1938, 1939, and 1969, human remains representing, at minimum, 154 individuals were removed from the Moore site (34Lf31) in LeFlore County, OK. The site is located approximately two miles north of the town of Spiro, OK, and within the floodplain of the Arkansas River. The Moore site was initially discovered—and severely disturbed—by a railroad that cut through the site in 1885. The site was later impacted by extensive farming activities and looting. The 1938 and 1939 excavations were carried out by the WPA, while the University of Oklahoma conducted additional salvage excavations in 1969. The associated finds were transferred to the SNOMNH following each excavation season. The human remains and funerary objects from site 34Lf31 were interred during the Fort Coffee phase (A.D. 1450–1650). The human remains consist of, at minimum, 34 adult females, 44 adult males, 28 adults of indeterminate sex, 40 children, and eight infants. The 315 associated funerary objects are: one ceramic pipe, one bag of charcoal from the aforementioned pipe, 42 undecorated ceramic vessels, 18 decorated ceramic vessels, one reconstructible decorated ceramic vessel, one undecorated partial vessel, 11 reconstructible undecorated ceramic vessels, 46 undecorated potsherds, three decorated potsherds, four bags of undecorated potsherds, 21 turquoise beads, one sandstone elbow pipe, 74 stone projectile points, 12 stone drills, one stone knife, one stone hoe, one unidentified stone tool, four stone tool fragments, 14 stone flakes, one bag of stone flakes, one modified stone, three red ochre fragments, seven pieces of quartz, six unmodified stones, eight faunal bone tools, four turtle shells, eight faunal jawbones, one modified fish bone, six faunal bones, five bags of faunal bones, three shell beads, two shells, two shell fragments, and one bag of shells.

In 1941, human remains representing, at minimum, two individuals were removed from the Geren site (34Lf36) in LeFlore County, OK. Located about one mile southwest of Spiro Mounds, this site was excavated by the WPA in 1941 and the associated finds were transferred to the SNOMNH that same year. The human remains and associated funerary objects from site 34Lf36 were interred during the Mississippian Period, and more specifically, during the local Spiro (A.D. 1350–1450) and Fort Coffee phases (A.D. 1450–1650). The human remains include one adult male, 35–50 years old, and one adult, older than 20 years, of indeterminate sex. The two associated funerary objects are one Fresno type projectile point and one side-notched Reed type projectile point.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, geographical information, and historical information, as well as information provided through tribal consultation.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the SNOMNH has determined that:

- The human remains described in this notice represent the physical remains of 250 individuals of Native American ancestry.
- The 491 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the SNOMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The SNOMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27802 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037081; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist Bioarchaeology Program, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Office of the State Archaeologist

Bioarchaeology Program (OSA–BP) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any Indian Tribe. The human remains and associated funerary objects were removed from Boone, Cass, Cherokee, Clayton, Clinton, Dickinson, Dubuque, Marshall, Monona, Muscatine, Page, Plymouth, Pottawattamie, Story, and Woodbury Counties, IA.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the OSA–BP. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the OSA–BP.

Description

In June 2009, human remains representing, at minimum, one individual were removed from 13PM247 in Plymouth County, IA. Very small cranial fragments were found on the surface of the known Archaic Period site by a local collector and were transferred to the OSA–BP. An individual of unknown age and sex is represented by the human remains (Burial Project 3084). No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location, presumed to be in Iowa. In 2016, a private citizen transferred to the OSA–BP human remains which he had inherited from a deceased relative with no provenience information. A middle adult male and a young adult of indeterminate sex are represented by the cranial remains (Burial Project 3184). No associated funerary objects are present.

In the 1950s and 1960s, human remains representing, at minimum, 16 individuals were removed from mound sites 13DB40 and 13DB1140 in Dubuque County, IA, as well as from a mound site of unknown location (reported as Richards Mound group) likely in Grant County, WI. The human remains were excavated by amateurs and curated in private homes until one of the excavators passed away. A descendant of the excavator transferred commingled human remains from all three sites to the OSA–BP in May 2016. Seven adults, including at least one female and three males, are represented, as well as eight juveniles of the following ages: 1.5–2.5 years, 2.5–4.5 years, 4.5–6.5 years, around 5.5 years, 7.5–9.5 years, 10.5–11.5 years, 11.5–13.5 years, and >14.5–15.5. The sixteenth individual is a likely juvenile, but age could not be estimated (Burial Project 3189). The 14 associated funerary objects are seven freshwater shell fragments, four small faunal bones, two pieces of baked clay, and one small piece of limestone.

In 2015 and 2016, human remains representing, at minimum, one individual were removed from 13DK96, likely a winter campsite, in Dickinson County, IA. During field school excavations conducted in 2015 and 2016 by the University of Iowa Department of Anthropology, three isolated human bone fragments originally thought to be faunal were recovered. Once identified as human, these remains were transferred to the OSA–BP. A child approximately 10-to-12 years old is represented by the human remains (Burial Project 3205). No associated funerary objects are present.

In 1939, human remains representing, at minimum, two individuals were removed from 13CK98, a precontact cemetery, in Cherokee County, IA. The human remains were discovered by a Civilian Conservation Corps crew digging a gravel pit on the property of a local farmer. The farmer kept the cranial remains in a house that was passed down to his descendants. Grandchildren of the farmer transferred the human remains to the OSA–BP in 2017. An old adult male and a young-to-middle adult female are represented by the human remains (Burial Project 3214). The one associated funerary object is a flat copper object, which appears to be a pendant.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location, possibly in northwestern Iowa. The unprovenienced remains, a single human tooth, were discovered in a desk drawer at the Sanford Museum in Cherokee, Cherokee County, IA. The discovery of the tooth with papers belonging to an archeological society suggests an archeological origin for the human remains, potentially a Native American site. No additional information is available. The human remains were transferred to the OSA–BP in 2017. An adult of unknown age and sex is represented by the tooth (Burial Project 3246). No associated funerary objects are present.

In September 2017, human remains representing, at minimum, one individual were removed from Muscatine County, IA. A private citizen discovered a partial cranium in the Cedar River (find spot 13MC350). The original location of the cranium is unknown. The find was reported to the Muscatine County Sheriff's Office, which collected the human remains and transferred them to the OSA–BP. An adult of unknown sex is represented by the human remains (Burial Project 3287). No associated funerary objects are present.

In August 2018, human remains representing, at minimum, one individual were removed from Cass County, IA. The human remains were discovered on a sandbar in the East Nishnabotna River (find spot 13CA79) by a private citizen who then transferred the human remains to the OSA–BP. An adult of unknown age, possibly female, is represented by the partial mandible (Burial Project 3375). No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, eight individuals were removed from an unknown location or locations in Iowa. Sometime in the 1970s, these human remains were transferred by Iowa archeologists to a forensic anthropologist at Kansas State University. In 2018, an anthropology professor at Kansas State identified the skeletal remains as originating from Iowa and transferred them to the OSA–BP in 2019. Three older adults, two adolescents or young adults, two young children (1.0–4.0 years), and one fetal to newborn individual are represented by the incomplete and fragmented remains (Burial Project 3402). No associated funerary objects are present.

In July 2019, human remains representing, at minimum, one individual were removed from Page County, IA. A partial human cranium was discovered by private citizens on a sandbar (find spot 13PA124) in the East Nishnabotna River. Page County Sheriff's deputies recovered the human remains and sent them to the Iowa Office of the State Medical Examiner (SME case #19–03834). A forensic anthropologist with Des Moines University determined that the human remains were too old to be of forensic

significance and were likely Native American. The State Medical Examiner transferred the human remains to the OSA–BP in August 2019. A middle adult female is represented by the human remains (Burial Project 3456). No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, four individuals were removed from an unknown location or locations in Iowa. Human remains were discovered on display at Jim's History Barn in Peterson, IA, by a Sanford Museum archeologist and reported to the OSA. Many bones that the elements were displayed with had site numbers written on them but these were without labels; given their similar coloration to labeled elements they are likely from sites in northwest Iowa as well. The human remains were confiscated by the OSA–BP in 2019. Four adults, one of unknown age beyond the category of adult, two middle-aged adults and one younger to middle-aged adult are represented by the incomplete and fragmented remains (BP3474). No associated funerary objects are present.

Between 2000 and 2009, human remains representing, at minimum, three individuals were removed from various locations in Iowa, potentially from Clinton in Clinton County. The human remains were initially collected and stored by Jim Pilgrim; they were transferred to the OSA–BP in December of 2019. The cranial and postcranial fragments represent three individuals: one adult of indeterminate sex, one adult male and one possible juvenile (BP3477). The 22 associated funerary objects are 10 faunal bones,11 pieces of stone, and one piece of black flint that has been flaked.

In 2019, human remains representing, at minimum, one individual were removed from Pottawattamie County, IA. A private citizen contacted the OSA for identification of an isolated bone fragment he had found while metal detecting. It was confirmed to be human, and it was transferred to the OSA–BP in December 2019, as other sites in the vicinity are known to include ancient burials. The find spot was designated 13PW391. An adult of unknown age and sex is represented by a tibial fragment (Burial Project 3483). No associated funerary objected are present.

In 2021, human remains representing, at minimum, one individual was removed from 13MN87 in Monona County, IA. On March 30, 2020, the Iowa Department of Natural Resources contacted the OSA to report a skull eroding along a road cut bank in the Loess Hills. The human remains were left in place and covered with clean fill. A year later the human remains were re-exposed, so were collected by the OSA–BP in 2021. A juvenile of unknown age is represented by a partial fragmented cranium (Burial Project 3498). No associated funerary objects are present.

In August 2020, human remains representing, at minimum, one individual were removed from Clayton County, IA. Kayakers found a partial maxilla and zygomatic on the bank of the Turkey River in Elkader, IA (find spot 13CT477), and turned it over to the Clayton County Sheriff's Office. The Clayton County Sheriff's Office contacted the OSA and in August 2020, the human remains were transferred to the OSA–BP. An adult of indeterminate sex around the age of 20–35 years old is represented by the human remains (Burial Project 3530). No associated funerary objects are present.

In October 2020, human remains representing, at minimum, one individual were removed from Woodbury County, IA. A private citizen informed the Woodbury County Sheriff's Office that he had discovered part of a human cranium in the Little Sioux River (find spot 13WD232). The original burial location of the cranium is unknown. The sheriff's office transferred the cranial fragment to the Iowa Office of the State Medical Examiner, where the human remains were determined not to be of forensic significance (SME Case#: 20–03037). The cranial remains were transferred to the OSA–BP in November 2020. An adult of unknown age and sex is represented by the left parietal (Burial Project 3544). No associated funerary objects are present.

On July 3, 2021, human remains representing, at minimum, one individual were removed from Cherokee County, IA. A human mandible was found by kayakers on a sandbar in the Little Sioux River (find spot 13CK175). The mandible was brought to the Cherokee County Sheriff's Office on July 10, 2021 and transferred to the OSA–BP on July 30, 2021. One middle-aged male (35–50 years) is represented by an almost complete mandible (BP3617). No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, one individual were removed from 13BN323, a village site with associated mounds, in Boone County, IA. The human remains were identified among faunal remains in the 2022 Jimmie Thompson Donation to the OSA. The human remains consist of a single mandibular right first molar. Dental wear indicates a middle-aged adult individual of Native American ancestry is represented; sex is indeterminate (BP3686). No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, one individual were removed from 13SR5 in Story County, IA. The human remains came to the OSA through the 2022 Jimmie Thompson Donation with other artifacts from the site. The human remains include three rib fragments and one manubrium fragment and represent an adult individual of indeterminate age and sex (BP3693). No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, one individual were removed from the Ioway Creek in Boone County north of Ames, IA (find spot 13BN491), by collector Jimmie Thompson. Mr. Thompson's collection was donated to the OSA in May 2022. In August 2022, a human mandible fragment was identified by OSA lab staff during the processing of the collection and was transferred to the OSA–BP. One adult probable male is represented by the mandible fragment (BP3706). No associated funerary objects are present.

On August 10, 2022, human remains representing, at minimum, one individual were removed from Marshall County, IA. A human mandible was found on a sandbar in the Iowa River (find spot 13MR501) by Marshall County Conservation volunteers surveying the river near Timmons Grove County Park. The volunteers contacted the Marshall County Sheriff's Office who contacted the Iowa State Medical Examiner. The mandible was transferred to the OSA–BP after the Medical Examiner's determination on August 11, 2022, that the human remains were not of forensic significance (SME Case#: 22–27091). One middle aged male (30–50) is represented by an almost complete mandible (BP3708). No associated funerary objects are present.

At an unknown date human remains representing, at minimum, one individual were removed from Monona County, IA. A mostly complete right parietal, articulating left parietal fragment, and partial mandible with five associated teeth were collected from a farm field near Castana, IA, by a farmer and given to private citizen of Mapleton, IA. The citizen's wife transferred the human remains to the Mapleton Museum in the late 1990s. The museum curator transferred the human remains to the Monona County Sheriff's Office in 2021 and the Sheriff transferred the human remains to the OSA in February of 2023. On older adult male (50+ years old) is represented by the cranial

elements and mandible (BP3757). No associated funerary objects are present.

At an unknown date, possibly between the 1960s and 2009, human remains representing, at minimum, three individuals were removed from an unknown location, likely within the vicinity of Clinton, IA, by a private collector. Upon the private collectors passing his family transferred the human remains to the OSA in March of 2023. One juvenile individual aged birth to two years and two adult males are represented (BP3770). The 16 associated funerary objects include one black chert early-stage biface, one white chert point base, and 14 shell fragments.

At an unknown date human remains representing, at minimum, one individual were removed from an unknown location, likely in the vicinity of Clinton, IA, by a private collector. Upon his passing his family transferred the human remains to the OSA in March of 2023. The human remains include on left tibia midsection from an adult individual (BP3772). The human remains represent one adult individual. No associated funerary objects are present.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a final judgment of the Indian Claims Commission or the United States Court of Claims, treaties, oral history, and consultation with 26 signatory Tribes to the *Process for Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects originating from Iowa.*

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the OSA–BP has determined that:

- The human remains described in this notice represent the physical remains of 55 individuals of Native American ancestry.
- The 53 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Citizen Potawatomi Nation, Oklahoma; Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Miami Tribe of Oklahoma; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota;, The Osage Nation; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and the Yankton Sioux Tribe of South Dakota.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after January 18, 2024. If competing requests for disposition are received, the OSA–BP must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The OSA–BP is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27791 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037092; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the American Museum of Natural History (AMNH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Snohomish County, WA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Nell Murphy, American Museum of Natural History, 200 Central Park West, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the AMNH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the AMNH.

Description

Human remains representing, at minimum, 16 individuals were removed from Snohomish County, WA. In 1899, former AMNH Curator of North American Archaeology, Harlan Smith, excavated the individuals and 15 associated funerary objects from eight shell heaps found along the

Stillaguamish River in the vicinity of Stanwood, WA. The material was collected as part of the Jesup Expedition and subsequently accessioned at the AMNH. Biological and archeological evidence suggests that the individuals excavated by Smith lived sometime during the Prehistoric Period. The 15 associated funerary objects are four shells, including a mussel shell; one stone; two grit stones; one stone pestle; two antler wedges; one piece of antler; one bone implement; one bone harpoon barb; one animal tooth; and one animal upper jaw fragment.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, biological information, geographical information, historical information, linguistics, oral tradition, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the AMNH has determined that:

- The human remains described in this notice represent the physical remains of 16 individuals of Native American ancestry.
- The 15 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Stillaguamish Tribe of Indians of Washington; Swinomish Indian Tribal Community; Tulalip Tribes of Washington; and the Upper Skagit Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the AMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The AMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27798 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037100; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: New York University, College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York University, College of Dentistry (NYU College of Dentistry) has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from Queens, Dutchess, and Bronx Counties, NY.

DATES: Disposition of the human remains in this notice may occur on or after January 18, 2024.

ADDRESSES: Joshua H. Johnson, NYU College of Dentistry, 345 East 24th Street, New York, NY 10010, telephone (646) 341–1016, email *jj65@nyu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of NYU College of Dentistry. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by NYU College of Dentistry.

Description

Human remains representing, at minimum, one individual were removed from Rockaway in Queens County, NY. The human remains of one individual were excavated at an unknown date by an unknown individual. The human remains have a label adhered to them that contains the number ''999.'' J. Carton Brevoost donated the human remains to the Museum of American Indian, and they were catalogued into the Department of Physical Anthropology at the Museum of American Indian in 1921. In 1956, the human remains were transferred to NYU College of Dentistry. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from Burr Reynolds Farm in Poughquag, Long Island, Dutchess County, NY. The human remains of one individual were excavated at an unknown date by an unknown individual. No donor is listed. The human remains are not catalogued in the ledger of the Department of Physical Anthropology at the Museum of the American Indian, but a label with the object identifies the locality and states that the human remains were donated in the winter of 1940–1941. In 1956, the human remains were transferred to the NYU College of Dentistry. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from Weir Creek Mound, Throgg's Neck, Bronx County, NY. The human remains were excavated at an unknown date by an unknown individual. E.O. Sugden donated the human remains to the Museum of American Indian, and they were catalogued into the Department of Physical Anthropology at the Museum of American Indian in 1920.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the

aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: treaties and expert testimony.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, NYU College of Dentistry has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after January 18, 2024. If competing requests for disposition are received, NYU College of Dentistry must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. NYU College of Dentistry is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and § 10.11.

Dated: December 11, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27803 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037087; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: South Carolina Institute of Archaeology and Anthropology, University of South Carolina, Columbia, SC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the South Carolina Institute of Archaeology and Anthropology (SCIAA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Pickens County, SC.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Nina Schreiner, South Carolina Institute of Archaeology and Anthropology (SCIAA), College of Arts and Sciences, University of South Carolina, 1321 Pendleton Street, Columbia, SC 29208, email *Schreinn@email.sc.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SCIAA. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the SCIAA.

Description

In 1968, human remains were removed from site 38PN1, Fort Prince George, Pickens County, SC, by Mr. John D. Combes of SCIAA, during the Keowee Toxaway Reservoir salvage excavations conducted for Duke Power Company of Charlotte, NC. These individuals were listed in a Notice of Inventory Completion published in the **Federal Register** on July 7, 2023 (88 FR 4204–4205) and have been repatriated. Subsequently, one associated funerary object was discovered in SCIAA collections, consisting of one lot of faunal material.

In 1967, human remains representing, at minimum, 20 individuals were removed from site 38PN2, I.C. Few, Pickens County, SC, by Dr. Robert T. Grange, Jr. of the Department of Anthropology, University of South Florida, Tampa, during the Keowee Toxaway Reservoir salvage excavations conducted by SCIAA for Duke Power Company of Charlotte, NC. The five associated funerary objects are one lot consisting of shell material, one lot consisting of faunal material, one lot consisting of lithic material, one lot of charcoal, and one lot consisting of ceramic material.

In 1967, human remains representing, at minimum, one individual were removed from site 38PN4, Rock Turtle, Pickens County, SC, by Dr. William E. Edwards of SCIAA, during the Keowee Toxaway Reservoir salvage excavations conducted by SCIAA for Duke Power Company of Charlotte, NC. The six associated funerary objects are one lot consisting of metal material, one lot consisting of ceramic material, one lot consisting of glass material, one lot consisting of lithic material, one lot consisting of soil, and one lot consisting of charcoal.

In 1967, one associated funerary object was removed from site 38PN34, the Pot Site, Pickens County, SC, by Mr. John D. Combes of SCIAA, during the Keowee Toxaway Reservoir salvage excavations conducted by SCIAA for Duke Power Company of Charlotte, NC. The one associated funerary object is one lot consisting of ceramic material.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the SCIAA has determined that:

- The human remains described in this notice represent the physical remains of 21 individuals of Native American ancestry.

• The 13 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the SCIAA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The SCIAA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27794 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037095; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Sam Noble Oklahoma Museum of Natural History, University of Oklahoma (SNOMNH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from McCurtain County, OK.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Dr. Marc Levine, Associate Curator of Archaeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email *mlevine@ou.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SNOMNH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the SNOMNH.

Description

In 1955, human remains representing, at minimum, six individuals were removed from the A.W. Davis site (34Mc6) in McCurtain County, OK. The site is located on the west bank of the Glover River and about one mile west of the small community of Glover, OK. Following extensive looting at the site, the University of Oklahoma carried out excavations at 34Mc6 in June and July of 1955, and at an unknown date, the excavated material remains were transferred to the SNOMNH. The human remains belong to a neonate, an infant, a child, and three adults of indeterminate sex who had been interred at the site during the pre-contact era, between A.D. 1200 and 1500. The 432 associated funerary objects are: 17 stone projectile points, one flake, three unmodified stones, one sample of pigment, two faunal bone fragments, one shell fragment, three samples of charcoal, three Avery Engraved ceramic vessels, one Harleton Applique ceramic jar, 10 decorated ceramic vessels, two partially reconstructed decorated ceramic vessels, one undecorated ceramic vessel, 66 decorated potsherds, 303 undecorated potsherds, 16 daub fragments, and two fragments of fired clay.

In 1941, human remains representing, at minimum, nine individuals were removed from the Clement 3 site (34Mc10) in McCurtain County, OK. This site was excavated in November of 1941 by the Works Progress Administration (WPA) under the direction of archeologists from the University of Oklahoma, and in 1941, the excavated material remains were transferred to the SNOMNH. The human remains belong to four adults of indeterminate sex, four children, and an individual whose age and sex could not be determined who had been interred at the site during the pre-contact era, between A.D. 1200 and 1500. The 115 associated funerary objects are six decorated ceramic jars, one decorated ceramic bowl, five undecorated ceramic bowls, one undecorated ceramic jar, two bags of decorated potsherds, 14 decorated potsherds, one bag of undecorated potsherds, 83 undecorated potsherds, one groundstone fragment, and one sample of green pigment.

In 1941, human remains representing, at minimum, 20 individuals were removed from the McDonald 1 site (34Mc11) in McCurtain County, OK. This site was excavated by the WPA in 1941–1942, and in 1965, the excavated material remains were transferred to the SNOMNH. The human remains belong to two children, two adult males, and 16 adults of indeterminate sex who had been interred at the site during the pre-contact era, between A.D. 1200 and 1500. The 272 associated funerary objects are one Simms Engraved ceramic bowl, one decorated ceramic bottle, 12 decorated ceramic vessels, 25 ceramic vessels, 206 potsherds, 17 projectile points, two modified stones, two stone pebbles, two quartz crystals, one animal bone fragment, one bag of animal bone fragments, and two bags of shell fragments.

In 1964–1965, human remains representing, at minimum, two individuals were removed from the Baldwin site (34Mc84) in McCurtain County, OK. This site was excavated in 1964–1965 by the University of Oklahoma, and in 1965, the excavated material remains were transferred to the SNOMNH. The human remains consist of a partial skeleton belonging to an adult female and a partial skeleton belonging to a young adult who is probably female. The 29 associated funerary objects are two ceramic jars, one ceramic bottle, one partial ceramic vessel, one bag of decorated potsherds, 14 undecorated potsherds, two bags of undecorated potsherds, seven animal bone fragments, and one modified stone.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, geographical, historical, and oral traditional.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the SNOMNH has determined that:

- The human remains described in this notice represent the physical remains of 37 individuals of Native American ancestry.
- The 848 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Caddo Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after January 18, 2024. If competing requests for repatriation are received, the SNOMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The SNOMNH is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27801 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037090; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University (SJSU) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any federally recognized Indian Tribe. The human remains and associated funerary objects were removed from the Ryan Mound (CA–ALA–329) of Newark/Fremont, Alameda County, CA.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after January 18, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of San Jose State University. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by San Jose State University.

Description

Human remains representing, at minimum, 377 individuals were removed from Alameda County, CA. The Ryan Mound collection was excavated by a team from San Jose State University from 1962–1968. The excavations recovered materials from three distinct strata, all of which contained burials and cultural remains. The CA–ALA–329 collection was split between SJSU and Stanford University in 1962; Stanford repatriated their holdings in 1989 to Muwekma Ohlone Tribe of the San Francisco Bay Area. The collection at SJSU was transferred in January 2004 from the Biological Sciences Department to Anthropology Department and was covered in a culturally unidentifiable Native American inventory in 2006. The 102 boxes of associated funerary objects include groundstone (mortars, pestles), other artifacts (charmstones, lithics and tools, beads, pendants), faunal remains and shell, charcoal, or soil samples.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Federally recognized Indian Tribes. These locations are also the aboriginal lands of the Ohlone/Costanoan Tribes recognized by the State. The following information was used to identify the aboriginal land: California Native American Heritage Commission Native American Contact List for implementing AB275 (dated: 6/22/2021), Unratified Treaty E ''Treaty at Dent's and Valentine's Crossing (May 28, 1851)'' (Heizer 1972).

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate

Indian Tribes, San Jose State University has determined that:

- The human remains described in this notice represent the physical remains of 377 individuals of Native American ancestry.
- The 102 boxes of objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Federally recognized Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Wilton Rancheria, California.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after January 18, 2024. If competing requests for disposition are received, San Jose State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and § 10.11.

Dated: December 8, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–27796 Filed 12–18–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520; OMB Control Number 1029–0039]

Submission to the Office of Management and Budget for Review and Approval; Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 20, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0039 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Title of Collection: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

OMB Control Number: 1029–0039.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses and State governments.

Total Estimated Number of Annual Respondents: 33.

Total Estimated Number of Annual Responses: 894.

Estimated Completion Time per Response: Varies from 2 hours to 80 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 17,621.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $322,136.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2023–27871 Filed 12–18–23; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1330]

Certain Audio Players and Components Thereof (II); Notice of Commission Determination To Review in Part, and, on Review, To Affirm in Part and Take no Position in Part on a Final Initial Determination Finding no Violation of Section 337; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part, and on review, to affirm in part and take no position in part on a final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') finding no violation of section 337. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Amanda P. Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 15, 2022, based on a complaint filed on behalf of Google LLC (''Google'') of Mountain View, California. 87 FR 56701 (Sept. 15, 2022). The complaint, as supplemented and amended, alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio players and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,632,748 (''the '748 patent''); 9,812,128 (''the '128 patent''); 11,024,311 (''the '311 patent''); and 11,050,615 (''the '615 patent''). *Id.* The complaint further alleged that an industry in the United States exists as required by section 337. *Id.* The Commission's notice of investigation named as the respondent Sonos, Inc. (''Sonos'') of Santa Barbara, California. *Id.* The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

The Commission previously terminated the investigation as to claims 1–4, 11–12, and 14–15 of the '748 patent; the '128 patent in its entirety; claims 1–3, 8, 9, 11,[1] 12, 14, 15, and 20 of the '311 patent; and claims 2, 3, 7, 8, 10–12, 15, and 18 of the '615 patent. *See* Order No. 20, *unreviewed by* Comm'n Notice (Apr. 10, 2023); Corrected Order No. 30, *unreviewed by* Comm'n Notice (June 8, 2023); Order No. 40, *unreviewed by* Comm'n Notice (July 10, 2023). The Commission also granted summary determination that the importation requirement of section 337 had been satisfied, and that Google satisfied the economic prong of the domestic industry requirement pursuant to section 337(a)(3)(B). *See* Order No. 27, *unreviewed by* Comm'n Notice (June 6, 2023); Order No. 31, *aff'd with modifications by* Comm'n Notice (June 28, 2023).

The presiding ALJ held an evidentiary hearing in this investigation from June 20–26, 2023.

On September 15, 2023, the ALJ issued the subject final ID finding no violation of section 337 because: (1) as to the '748 patent, none of the Accused Products or Redesigned Products infringe the asserted claims, none of the Domestic Industry Products practice the asserted claims, and the asserted claims are invalid as anticipated; (2) as to the '311 patent, the Accused Products and Redesigned Products SVC #5 and #7 infringe claim 10 and the Domestic Industry Products practice claims 10, 11, 16, and 17, but the asserted claims (except for claim 18) are invalid as anticipated or obvious, and the asserted claims are unpatentable under 35 U.S.C. 101; and (3) as to the '615 patent, the Accused Products infringe all asserted claims (directly and indirectly), but none of the Domestic Industry Products practice the asserted claims, and the asserted claims are invalid as anticipated or obvious.

On September 29, 2023, Google filed a petition for review, seeking review of certain of the ID's findings concerning claim construction and validity as to the '311 patent. That same day, Sonos filed a contingent petition for review of certain of the ID's findings regarding the validity of claim 18 of the '311 patent, as well as infringement and validity of the '615 patent. The parties filed responses to the petitions on October 10, 2023.

Having reviewed the record of the investigation, including the final ID, the parties' submissions to the ALJ, the petitions, and the responses thereto, the Commission has determined to review the ID in part. Specifically, as to the '311 patent, the Commission has determined to review the ID's findings regarding: (1) claim construction of the term ''detect[ing] a voice input;'' (2) anticipation of claims 10, 16, and 17 by Rosenberger; (3) anticipation of claims 10, 16, and 17 by the VoicePod System; (4) anticipation of claims 10, 16, and 17 by Jang; and (5) the patentability of claims 10, 11, and 16–19 under 35 U.S.C. 101. On review, the Commission has determined to affirm with modified and/or supplemental reasoning the ID's findings on these issues. The Commission has also determined to review and on review does not adopt the paragraph beginning ''Lastly . . .'' in the ALJ's construction of ''[forgoing/forgo] responding'' set forth in Order No. 14 at page 41. As to the '615 patent, the Commission has determined to review the ID's finding that claims 6 and 19 are not invalid as obvious over Roberts. On review, the Commission has determined to take no position on this issue. The Commission has determined not to review the remainder of the ID. The Commission adopts the ID's findings to the extent that they are not inconsistent with the Commission's opinion issued concurrently herewith. This investigation is terminated with a finding of no violation of section 337.

The Commission vote for this determination took place on December 13, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part

[1] Google continued to assert claim 11 of the '311 patent for domestic industry purposes.

210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–27822 Filed 12–18–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1378–1379 (Review)]

Low Melt Polyester Staple Fiber From South Korea and Taiwan

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on low melt polyester staple fiber from South Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on July 3, 2023 (88 FR 42688) and determined on October 6, 2023 that it would conduct expedited reviews (88 FR 73870, October 27, 2023).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on December 13, 2023. The views of the Commission are contained in USITC Publication 5480 (December 2023), entitled *Low Melt Polyester Staple Fiber from South Korea and Taiwan: Investigation Nos. 731–TA–1378–1379 (Review).*

By order of the Commission.

Issued: December 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–27778 Filed 12–18–23; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Civil Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Civil Rules; notice of open meeting.

SUMMARY: The Advisory Committee on Civil Rules will hold a meeting in a hybrid format with remote attendance options on April 9, 2024 in Denver, CO. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *https://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: April 9, 2024.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: December 14, 2023.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2023–27864 Filed 12–18–23; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Appellate Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Appellate Rules; notice of open meeting.

SUMMARY: The Advisory Committee on Appellate Rules will hold a meeting in a hybrid format with remote attendance options on April 10, 2024 in Denver, CO. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *https://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: April 10, 2024.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: December 14, 2023.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2023–27862 Filed 12–18–23; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Bankruptcy Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Bankruptcy Rules; notice of open meeting.

SUMMARY: The Advisory Committee on Bankruptcy Rules will hold a meeting in a hybrid format with remote attendance options on April 11, 2024 in Denver, CO. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *https://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: April 11, 2024.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: December 14, 2023.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2023–27863 Filed 12–18–23; 8:45 am]

BILLING CODE 2210–55–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 23–124]

Agency Information Collection: National Aeronautics and Space Administration (NASA) Kennedy Space Center Exchange Evelyn Johnson Scholarship Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of new 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 February 20, 2024.

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 NASA PRA Clearance Officer, Bill Edwards-Bodmer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, phone 757–864–7998, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Evelyn Johnson Scholarship Program (EJSP) recognizes the academic achievement of, and provides financial assistance to, the dependents of NASA Kennedy Space Center (KSC) civil service and NASA KSC Exchange employees. The scholarship honors the dedication and commitment of the late Evelyn Johnson, a Deputy Director, Equal Opportunity Program Office at KSC. Applicants are evaluated on the basis of academic achievement, involvement in school and community activities, and education and career goals. The scholarship winners may pursue any course of study leading to an undergraduate degree at any accredited college in the country. The scholarship is intended to be used only for tuition, fees, books and supplies associated with attending college.

II. Methods of Collection

Electronically available form.

III. Data

Title: NASA Kennedy Space Center Exchange Evelyn Johnson Scholarship Program.

OMB Number: 2700–new.

Type of review: New information collection.

Affected Public: Individuals.

Estimated Annual Number of Activities: 3 to 5 scholarships per year.

Estimated Number of Respondents per Activity: 20 applicants per year.

Annual Responses: 20.

Estimated Time per Response: Approx. 1 hour each.

Estimated Total Annual Burden Hours: 20 hours.

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. 2023–27836 Filed 12–18–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Awardee Reporting Requirements for the Established Program To Stimulate Competitive Research (EPSCoR) Research Infrastructure Improvement Programs

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, 703–292–7556, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Copies of the submission may be obtained by calling 703–292–7556.

SUPPLEMENTARY INFORMATION: NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title of Collection: Awardee Reporting Requirements for the Established Program to Stimulate Competitive Research (EPSCoR) Research Infrastructure Improvement Programs.

OMB Number: 3145–0243.

Type of Request: Renewal with change of an established information collection.

Proposed Project: The mission of the National Science Foundation (NSF) is to promote the progress of science; to advance the national health, welfare, and prosperity; and to secure the national defense, while avoiding the undue concentration of research and education. In 1977, in response to congressional concern that NSF funding was overly concentrated geographically, a National Science Board task force analyzed the geographic distribution of NSF funds, which resulted in the creation of an NSF Experimental Program to Stimulate Competitive Research (EPSCoR). The American Innovation and Competitiveness Act (sec. 103 D, Pub. L. 114–329) effectively changed the program's name from ''Experimental'' to ''Established'' in FY 2016. Congress specified two objectives for the EPSCoR program in the National Science Foundation Authorization Act of 1988: (1) to assist States that

historically have received relatively little Federal research and development funding; and (2) to assist States that have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

The EPSCoR Research Infrastructure Improvement (RII) Investment Strategies advance science and engineering capabilities in EPSCoR jurisdictions for discovery, innovation and overall knowledge-based prosperity. These projects build human, cyber, and physical infrastructure in EPSCoR jurisdictions, stimulating sustainable improvements in their Research & Development (R&D) capacity and competitiveness.

EPSCoR projects are unique in their scope and complexity; in their integration of individual researchers, institutions, and organizations; and in their role in developing the diverse, well-prepared, STEM-enabled workforce necessary to sustain research competitiveness and catalyze economic development. In addition, these projects are generally inter- or multi-disciplinary and involve effective jurisdictional and regional collaborations among academic, government, and private sector stakeholders that advance scientific research, promote innovation, and provide multiple societal benefits. They also broaden participation in science and engineering by engaging multiple institutions and organizations at all levels of research and education, and people within and among EPSCoR jurisdictions. These projects usually involve between 100 to 300 participants per year over the performance period, and the projects reach thousands more through their extensive STEM outreach activities. The American Innovation and Competitiveness Act of 2016, section 103 (Pub. L. 114–329) requires NSF EPSCoR to submit annual reports to both Congress and OSTP that contain data detailing project progress and success (new investigators, broadening participation, dissemination of results, new workshops, outreach activities, proposals submitted and awarded, mentoring activities among faculty members, collaborations, researcher participating on the review process, etc.).

EPSCoR RII Track-1, Track-2, and Track-4 projects are required to submit annual reports on progress and plans, which are used as a basis for performance review and determining the level of continued funding. To support this review and the management of EPSCoR RII projects, teams are required to develop a set of performance indicators for building sustainable infrastructure and capacity in terms of a strategic plan for the project; measure performance and revise strategies as appropriate; report on the progress relative to the project's goals and milestones; and describe changes in strategies, if any, for submission annually to NSF. These indicators are both quantitative and descriptive and may include, for example, the characteristics of project personnel and students; aggregate demographics of participants; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; workforce development activities; external engagement activities; patents and patent licenses; publications; degrees granted to students involved in project activities; and descriptions of significant advances and other outcomes of the EPSCoR project's efforts. Part of this reporting takes the form of several spreadsheets to capture specific information to demonstrate progress towards achieving the goals of the program. Such reporting requirements are included in the cooperative agreement which is binding between the awardee institution and NSF.

Each project's annual report addresses the following categories of activities: (1) research, (2) education, (3) workforce development, (4) partnerships and collaborations, (5) communication and dissemination, (6) sustainability, (7) diversity, (8) management, and (9) evaluation and assessment.

For each of the categories the report is required to describe overall objectives for the year; specific accomplishments, impacts, outputs and outcomes; problems or challenges the project has encountered in making progress towards goals; and anticipated problems in performance during the following year.

Use of the Information: NSF will use the information to continue its oversight of funded EPSCoR RII projects, and to evaluate the progress of the program.

The change would facilitate reporting better aligned with program goals and provides data as legislatively required for NSF EPSCoR.

Estimate of Burden: Approximately 59 hours per project for 181 projects for a total of 10,679 hours.

Respondents: Non-profit institutions; federal government.

Estimated Number of Responses per Report: One.

Dated: December 14, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–27872 Filed 12–18–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Graduate Research Fellowships Program

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, 703–292–7556, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Copies of the submission may be obtained by calling 703–292–7556.

SUPPLEMENTARY INFORMATION: NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information.

Title of Collection: Graduate Research Fellowship Program.

OMB Number: 3145–0023.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available * * * scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, biological, engineering, social, and other sciences at accredited U.S. institutions selected by the recipient of such aid, for stated periods of time.''

The Graduate Research Fellowship Program has two goals:

- To select, recognize, and financially support, early in their careers, individuals with the demonstrated potential to be high achieving scientists and engineers;
- To broaden participation in science and engineering of underrepresented groups, including women, minorities, persons with disabilities, and veterans.

The list of GRFP Awardees recognized by the Foundation may be found via FastLane through the NSF website: *https://www.fastlane.nsf.gov/grfp/AwardeeList.do?method=loadAwardeeList.* The GRF Program is described in the Solicitation available at: *https://www.nsf.gov/publications/pub_summ.jsp?ods_key=nsf19590&org=NSF.*

Estimate of Burden: This is an annual application program providing three years of support to individuals, usable over a five-year fellowship period. The application deadlines are in late October. It is estimated that each submission is averaged to be 12 hours per respondent, which includes three references (on average) for each application. It is estimated that it takes two hours per reference for each applicant.

Respondents: Individuals.

Estimated Number of Responses: 14,000.

Estimated Total Annual Burden on Respondents: 168,000 hours.

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: December 14, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–27870 Filed 12–18–23; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323; NRC–2023–0192]

License Renewal Application; Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Acceptance for docketing; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) found acceptable for docketing and is considering an application for the renewal of Facility Operating License Nos. DPR–80 and DPR–82, which authorize Pacific Gas and Electric Company (PG&E, the applicant) to operate Diablo Canyon Nuclear Power Plant (DCPP), Units 1 and 2. The current operating licenses for DCPP expire as follows: Unit 1 on November 2, 2024, and Unit 2 on August 26, 2025. If renewed, the renewed licenses would authorize the applicant to operate DCPP for an additional 20 years beyond the period specified in each of the current licenses.

DATES: A request for a hearing or petition for leave to intervene must be filed by March 4, 2024.

ADDRESSES: Please refer to Docket ID NRC–2023–0192 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–2023–0192. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–287–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *Public Library:* A copy of the license renewal application for DCPP can be accessed at the following public library: San Luis Obispo Library, 995 Palm St, San Luis Obispo, CA 93403.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. 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: Brian Harris, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2277; email: *Brian.Harris2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received a license renewal application (LRA) from PG&E, dated November 7, 2023 (ADAMS Accession No. ML23311A154), filed pursuant to part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' to renew the operating licenses for DCPP. DCPP consists of two pressurized-water reactors designed by Westinghouse and is located in Avila Beach, California. A notice of receipt of the LRA was published in the **Federal Register** on November 20, 2023 (88 FR 80780).

The NRC staff has determined that PG&E has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c) to enable the staff to undertake a review of the application, and that the application is, therefore, acceptable for docketing. The current docket numbers, 50–275 and 50–323, for Facility Operating License Nos. DPR–80 and DPR–82, respectively, will be retained. The determination to accept the LRA for

docketing does not constitute a determination that a renewed license should be issued and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed licenses, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis and that any changes made to the plant's current licensing basis will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC staff will prepare an environmental impact statement as a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' dated June 2013 (ADAMS Accession No. ML13106A241). In considering the LRA, the Commission must find that the applicable requirements of subpart A of 10 CFR part 51 have been satisfied, and that any matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate **Federal Register** notice.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 75 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. The NRC's regulations require a minimum of 60 days within which to file a request for a hearing and petition for leave to intervene. Here, the NRC is extending that time period to 75 days in consideration of the holiday season. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 75 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 75 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov*, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon on the NRC's public website at *https://www.nrc.gov/reactors/operating/licensing/renewal.html.* Copies of the application to renew the operating licenses for DCPP are available for public inspection at the NRC's PDR, and on the NRC's public website at *https://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.* The application may be accessed in ADAMS through the NRC Library on the internet at *https://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML23311A154. As previously stated, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may 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.*

Dated: December 14, 2023.

For the Nuclear Regulatory Commission.

Lauren K. Gibson,

Chief, License Renewal Project Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–27856 Filed 12–18–23; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–111 and CP2024–116; MC2024–112 and CP2024–117; MC2024–113 and CP2024–118; MC2024–114 and CP2024–119; MC2024–115 and CP2024–120; MC2024–116 and CP2024–121; MC2024–117 and CP2024–122]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 20, 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

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).:* MC2024–111 and CP2024–116; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 139 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* December 20, 2023.

2. *Docket No(s).:* MC2024–112 and CP2024–117; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 34 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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:* December 20, 2023.

[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).

3. *Docket No(s).:* MC2024–113 and CP2024–118; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 35 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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:* December 20, 2023.

4. *Docket No(s).:* MC2024–114 and CP2024–119; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 36 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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:* December 20, 2023.

5. *Docket No(s).:* MC2024–115 and CP2024–120; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 37 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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:* December 20, 2023.

6. *Docket No(s).:* MC2024–116 and CP2024–121; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 140 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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:* December 20, 2023.

7. *Docket No(s).:* MC2024–117 and CP2024–122; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 141 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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:* December 20, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–27808 Filed 12–18–23; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99152; File No. SR–PEARL–2023–68]

Self-Regulatory Organizations; MIAX PEARL LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 100, Definitions, Rule 530, Limit Up-Limit Down, Rule 2612, Minimum Price Variations, Rule 2614, Orders and Order Instructions, and Rule 2705 Prohibition Against Trading Ahead of Customer Orders

December 13, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 6, 2023, MIAX PEARL LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update citations to Rule 600(b) of Regulation National Market System (''Regulation NMS'') in Exchange Rule 100, Definitions, Rule 530, Limit Up-Limit Down, Rule 2612, Minimum Price Variations, Rule 2614, Orders and Order Instructions, and Rule 2705 Prohibition Against Trading Ahead of Customer Orders.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings,* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update citations to Rule 600(b) of Regulation NMS in Exchange Rule 100, Definitions, Rule 530, Limit Up-Limit Down, Rule 2612, Minimum Price Variations, Rule 2614, Orders and Order Instructions, and Rule 2705 Prohibition Against Trading Ahead of Customer Orders.

In 2021, the Securities and Exchange Commission (the ''Commission'') amended Regulation NMS under the Act in connection with the adoption of the Market Data Infrastructure Rules.[3] As part of that initiative, the Commission adopted new definitions in Rule 600(b) of Regulation NMS and renumbered the remaining definitions, including the definitions of Trading Center (formerly Rule 600(b)(82)), Regular Trading Hours (formerly Rule 600(b)(77)), NMS Stock (formerly Rule 600(b)(48)), and Intermarket Sweep Order (formerly Rule 600(b)(31)).

The Exchange accordingly proposes to update the relevant citations to Rule 600(b) in its rules as follows:

- The citation to the definition of Trading Center in Rule 100 would be changed to Rule 600(b)(82).
- The citation to the definition of Regular Trading Hours in Rule 530, Limit Up-Limit Down, would be changed to Rule 600(b)(77).
- The citation to the definition of NMS Stock in Rule 2612(a) would be changed to Rule 600(b)(55).
- The citation to the definition of Intermarket Sweep Order in Rule 2614 and Rule 2705, would be changed to Rule 600(b)(38).

2. Statutory Basis

The Exchange believes the proposed rules changes are consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rules changes are consistent with section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90610, 86 FR 18596 (April 9, 2021) (S7–03–20).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed changes to its rules to correct citations to Rule 600(b) of Regulation NMS would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed change is designed to update an external rule reference. The Exchange believes that Members [6] would benefit from the increased clarity, thereby reducing potential confusion and ensuring that those subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules. The Exchange further believes that the proposed changes would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rules changes would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rules changes is not intended to address competitive issues but rather would modify Exchange rules to update citations to Rule 600(b) of Regulation NMS. Since the proposal does not substantively modify System [7] functionality or processes on the Exchange, the proposed changes will not impose any burden on competition nor are they meant to affect competition among the exchanges. For these reasons, the Exchange believes that the proposed rules changes reflect this competitive environment and do not impose any undue burden on intermarket competition.

[6] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[7] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to section 19(b)(3)(A) of the Act [8] and Rule 19b-4(f)(6) [9] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The proposal raises no novel legal or regulatory issues, and operative delay waiver would permit the Exchange to promptly correct citations to Rule 600(b) of Regulation NMS in order to alleviate potential investor or public confusion and add clarity to its rules. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–PEARL–2023–68 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PEARL–2023–68. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All

submissions should refer to file number SR–PEARL–2023–68 and should be submitted on or before January 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27784 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99151; File No. SR–CboeBZX–2023–087]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Invesco Galaxy Ethereum ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

December 13, 2023.

On October 20, 2023, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Invesco Galaxy Ethereum ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on November 8, 2023.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 23, 2023. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates February 6, 2024, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2023–087).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27806 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99160; File No. SR–MIAX–2023–49]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 404, Series of Option Contracts Open for Trading

December 13, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2023, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 404, Series of Option Contracts Open for Trading.[3] Specifically, the Exchange proposes to amend Interpretations and Policies .02 to expand the Short Term Option Series Program to permit the listing of two Wednesday expirations for options on United States Oil Fund, LP (''USO''), United States Natural Gas Fund, LP (''UNG''), SPDR Gold Shares (''GLD''), iShares Silver Trust (''SLV''), and iShares 20+ Year Treasury Bond ETF (''TLT'') (collectively ''Exchange Traded Products'' or ''ETPs''). This is a competitive filing based on proposals submitted by Nasdaq ISE, LLC (''Nasdaq ISE''),[4] and the Cboe Options Exchange (''Cboe Exchange'').[5]

Currently, as set forth in Policy .02 of Rule 404, after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays on which monthly options series or Quarterly Options Series expire (''Friday Short Term Option Expiration Dates''). The Exchange may have no

[13] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98846 (Nov. 2, 2023), 88 FR 77116. Comments on the proposed rule change are available at: *https://www.sec.gov/comments/sr-cboebzx-2023-087/srcboebzx2023087.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that all the rules of Chapter IV of the MIAX Options Exchange, including Rule 404, are incorporated by reference to MIAX Emerald.

[4] *See* Securities Exchange Act Release No. 98905 (November 13, 2023) (SR–ISE–2023–11) (Order Approving a Proposed Rule Change to Amend the Short Term Option Series Program to Permit the Listing of Two Wednesday Expirations for Options on Certain Exchange Traded Products) (''Nasdaq ISE Approval'').

[5] *See* Securities Exchange Act Release No. 99035 (November 29, 2023), 88 FR 84367 (December 5, 2023) (SR–Cboe–2023–062).

more than a total of five Friday Short Term Option Expiration Dates (''Short Term Option Weekly Expirations''). If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of Policy .02 of Rule 404 that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Short Term Option Daily Expirations''). For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time.

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on USO, UNG, GLD, SLV, and TLT expiring on Wednesdays. The Exchange proposes to permit two Short Term Option Expiration Dates beyond the current week for each Wednesday expiration at one time.[6] In order to effectuate the proposed changes, the Exchange would add USO, UNG, GLD, SLV, and TLT to Table 1 of Policy .02 of Rule 404, which specifies each symbol that qualifies as a Short Term Option Daily Expiration.

The proposed Wednesday USO, UNG, GLD, SLV, and TLT expirations will be similar to the current Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in Policy .02 of Rule 404, such that the Exchange may open for trading on any Tuesday or Wednesday that is a business day (beyond the current week) series of options on USO, UNG, GLD, SLV, and TLT to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (''Wednesday USO Expirations,'' ''Wednesday UNG Expirations,'' ''Wednesday GLD Expirations,'' ''Wednesday SLV Expirations,'' and ''Wednesday TLT Expirations'') (collectively, ''Wednesday ETP Expirations'').[7] In the event Short Term Option Daily Expirations expire on a Wednesday and that Wednesday is the same day that a Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Wednesday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a Quarterly Option Series.

USO, UNG, GLD, SLV, and TLT Friday expirations would continue to have a total of five Short Term Option Expiration Dates provided those Friday expirations are not Fridays in which monthly options series or Quarterly Options Series expire (''Friday Short Term Option Expiration Dates'').

Similar to Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations within Policy .02 of Rule 404, the Exchange proposes that it may open for trading on any Tuesday or Wednesday that is a business day series of options on USO, UNG, GLD, SLV, and TLT that expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which Quarterly Options Series expire.

The interval between strike prices for the proposed Wednesday ETP Expirations will be the same as those for the current Short Term Option Series for Friday expirations applicable to the Short Term Option Series Program.[8] Specifically, the Wednesday ETP Expirations will have a strike interval of $0.50 or greater for strike prices below $100, $1 or greater for strike prices between $100 and $150, and $2.50 or greater for strike prices above $150.[9] As is the case with other equity options listed pursuant to the Short Term Option Series Program, the Wednesday ETP Expirations series will be P.M.—settled.

Pursuant to Policy .02 of Rule 404, with respect to the Short Term Option Series Program, a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week if the Wednesday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[10] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.[11] With the proposed changes, this thirty (30) series restriction would apply to Wednesday USO, UNG, GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming that they file similar rules with the Commission to list Wednesday ETP Expirations.

With this proposal, Wednesday ETP Expirations would be treated similarly to existing Wednesday SPY, QQQ, and IWM Expirations. With respect to monthly option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which monthly option series on the same class expire. Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Wednesday ETP Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire. Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Wednesday ETP Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Wednesday ETP Expirations. The Exchange currently trades P.M.-settled Short Term Option

[6] Consistent with the current operation of the rule, the Exchange notes that if it adds a Wednesday expiration on a Tuesday, it could technically list three outstanding Wednesday expirations at one time. The Exchange will therefore clarify the rule text in Policy .02 of Rule 404 to specify that it can list two Short Term Option Expiration Dates *beyond the current week* for each Monday, Tuesday, Wednesday, and Thursday expiration.

[7] While the relevant rule text in Policy .02 of Rule 404 also indicates that the Exchange will not list such expirations on a Wednesday that is a business day in which monthly options series expire, practically speaking this would not occur.

[8] *See* Policy .02(e) of Rule 404.

[9] *Id.*

[10] *See* Policy .02(c) of Rule 404.

[11] *Id.*

Series that expire on Wednesday for SPY, QQQ, and IWM and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Wednesday for SPY, QQQ, and IWM.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[12] Specifically, the Exchange believes that its proposed rule change is consistent with section 6(b)(5) [13] requirements in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Similar to Wednesday expirations in SPY, QQQ, and IWM, the proposal to permit Wednesday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Wednesday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, USO, UNG, and TLT given that it will be limited to two Wednesday expirations beyond the current week. Lastly, the Exchange believes its proposal will not be a strain on liquidity providers because of the multi-class nature of GLD, SLV, USO, UNG, and TLT and the available hedges in highly correlated instruments, as described above.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Wednesday ETP Expirations by limiting the addition of two Wednesday expirations beyond the current week. The addition of Wednesday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers to continue to deploy capital more efficiently and improve market quality. The Exchange believes that the proposal will allow market participants to expand hedging tools and tailor their investment and hedging needs more effectively in USO, UNG, GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes.

Similar to Wednesday SPY, QQQ, and IWM expirations, the introduction of Wednesday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Wednesday ETP Expirations will allow market participants to purchase options on USO, UNG, GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Wednesday SPY, QQQ, and IWM Expirations.[14]

The Exchange believes the Short Term Option Series Program has been successful to date and that Wednesday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. There are no material differences in the treatment of Wednesday SPY, QQQ, and IWM expirations compared to the proposed Wednesday ETP Expirations. Given the similarities between Wednesday SPY, QQQ, and IWM expirations and the proposed Wednesday ETP Expirations, the Exchange believes that applying the provisions in Policy .02 of Rule 404 that currently apply to Wednesday SPY, QQQ, and IWM expirations is justified. For example, the Exchange believes that allowing Wednesday ETP Expirations and monthly ETP expirations in the same week will benefit investors and minimize investor confusion by providing Wednesday ETP Expirations in a continuous and uniform manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to filings submitted by Nasdaq ISE [15] and the Cboe Exchange.[16]

While the proposal will expand the Short Term Options Expirations to allow Wednesday ETP Expirations to be listed on the Exchange, the Exchange believes that this limited expansion for Wednesday expirations for options on USO, UNG, GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that market participants will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in USO, UNG, GLD, SLV, and TLT given multi-class nature of these products and the available hedges in highly correlated instruments, as described above. Similar to Wednesday SPY, QQQ, and IWM expirations, the introduction of Wednesday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Wednesday ETP Expirations will allow market participants to purchase options on USO, UNG, GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Wednesday ETP Expirations. Further, the Exchange does not believe the proposal will impose any burden on intra-market competition, as all market

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Policy .02 of Rule 404.

[15] *See supra* note 4.

[16] *See supra* note 5.

participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[19] and subparagraph (f)(6) of Rule 19b-4 thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6)[21] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[22] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a filing submitted by Nasdaq ISE that was recently approved by the Commission.[23] The Exchange has stated that waiver of the 30-day operative delay would ensure fair competition among the exchanges by allowing the Exchange to permit the listing of two Wednesday expirations for options on ETPs. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2023–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MIAX–2023–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MIAX–2023–49 and should be submitted on or before January 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27782 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *See supra* note 4.

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99164; File No. SR–NYSEARCA–2023–84]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Changes to Certain Representations Relating to the Hashdex Bitcoin Futures Fund

December 13, 2023.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 1, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make changes to certain representations made in the proposed rule change previously filed with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') pursuant to Rule 19b–4 relating to the Hashdex Bitcoin Futures Fund,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.200–E. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved the listing and trading on the Exchange of shares (''Shares'') of the Hashdex Bitcoin Futures Fund (the ''Target ETF''),[4] under NYSE Arca Rule 8.200–E, Commentary .02, which governs the listing and trading of Trust Issued Receipts.[5] Shares of the Target ETF are currently listed and traded on the Exchange under NYSE Arca Rule 8.200–E, Commentary .02. According to the Releases, the Target ETF is a series of Teucrium Commodity Trust (the ''Teucrium Trust''), a Delaware statutory trust. The Exchange represented in the Releases that the Target ETF is managed and controlled by Teucrium Trading, LLC (''Sponsor'') and that the Sponsor is registered as a commodity pool operator (''CPO'') and a commodity trading adviser (''CTA'') with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association (''NFA'').

The Tidal Commodities Trust I (''Tidal Trust'') has filed a combined prospectus and information statement (the ''Information Statement'') with the Commission describing an Agreement and Plan of Partnership Merger and Liquidation (''Plan of Merger'') between the Teucrium Trust and the Tidal Trust pursuant to which the assets of the Target ETF will be reorganized into the Hashdex Bitcoin Futures ETF (the ''Acquiring ETF''), a series of the Tidal Trust.[6] According to the Information Statement, the Target ETF has the same investment objective and investment strategies and substantially identical investment risks as the Acquiring ETF. Upon the closing of the reorganization contemplated by the Plan of Merger (''Reorganization''), the Target ETF will transfer all of its assets and liabilities to the Acquiring ETF. Simultaneously, the Acquiring ETF will distribute its shares (the ''Merger Shares'') to the shareholders of the Target ETF. The Merger Shares will have a net asset value (''NAV'') per share equal to the NAV per share of the Target ETF determined immediately before the closing of the Reorganization resulting in a distribution of one share of Merger Shares for each outstanding share of the Target ETF. Closing of the Reorganization will result in the termination of all outstanding Target ETF shares and the liquidation of the Target ETF. Shareholders of the Target ETF will thus effectively be converted into shareholders of the Acquiring ETF and will hold shares of the Acquiring ETF with the same NAV as shares of the Target ETF that they held prior to the Reorganization. According to the Information Statement, following the Reorganization, the Shares will be issued by the Tidal Trust and the sponsor of the Acquiring ETF will be Toroso Investments LLC (''New Sponsor'').

The purpose of this proposed rule change is to change certain representations made in the proposed rule change previously filed with the Commission pursuant to Rule 19b–4 relating to the Target ETF, as described above, which changes would be implemented as a result of the Reorganization. Following the Reorganization, the Acquiring ETF will continue to comply with all initial and continued listing requirements under NYSE Arca Rule 8.200–E, Commentary .02. In addition, the Acquiring ETF's portfolio meets and will continue to meet the representations regarding the Target ETF's investments as described in the Releases.[7] Except for the changes noted above, all other representations made in the Releases remain unchanged.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[8] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, and is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Tidal Trust has filed the Information Statement describing the Reorganization pursuant to which the assets of the Target ETF will be reorganized into the Acquiring ETF. This filing proposes to reflect organizational and administrative changes that would be implemented as a result of the Reorganization, including changes to the trust entity issuing shares of the Target ETF and the sponsor to the Target ETF. According to the Information Statement, the investment objective of the Acquiring ETF will be the same as that of the Target ETF following the Reorganization. The Exchange believes these changes will not adversely impact investors or Exchange trading. In addition, the Acquiring ETF's portfolio meets and will continue to meet the representations regarding the Target

[4] *See* Securities Exchange Act Release Nos. 94620 (April 6, 2022), 87 FR 21676 (April 12, 2022)) (SR–NYSEARCA–2021–53) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the Teucrium Bitcoin Futures Fund Under NYSE Arca Rule 8.200–E, Commentary .02 (Trust Issued Receipts) (''Approval Order''); and 92573 (August 5, 2021), 86 FR 44062 (August 11, 2021) (Notice of Filing of a Proposed Rule Change To List and Trade Shares of Teucrium Bitcoin Futures Fund Under NYSE Arca Rule 8.200–E) (''Notice''). (The Approval Order and the Notice are referred to collectively herein as the ''Releases''). The Fund was renamed as the Hashdex Bitcoin Futures Fund after approval of the proposed rule change but prior to its initial listing and trading on the Exchange.

[5] Commentary .02 to NYSE Arca Rule 8.200–E applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Rule 8.200–E, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[6] On July 21, 2023, the Tidal Commodities Trust I submitted to the Commission its registration statement on Form S–1 under the Securities Act of 1933 (the ''Registration Statement''). The Registration Statement is not yet effective.

[7] According to the Notice, the investment objective of the Target ETF is to have the daily changes in the NAV of the Target ETF's Shares reflect the daily changes in the price of a specified benchmark (the ''Benchmark''). The Benchmark is the average of the closing settlement prices for the first to expire and second to expire BTC Contracts listed on the Chicago Mercantile Exchange, Inc. The first to expire and second to expire BTC Contracts and MBT Contracts are referred to as the Bitcoin Futures Contracts. According to the Notice, under normal market conditions, the Target ETF will invest in Bitcoin Futures Contracts and in cash and cash equivalents.

[8] 15 U.S.C. 78f(b)(5).

ETF's investments as described in the Releases. Except for the changes noted above, all other representations made in the Releases remain unchanged. As stated above and in the Releases, shares of the Acquiring ETF shall also conform to the initial and continued listing criteria under Rule 8.200–E.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes the proposed rule change will not impose a burden on competition and will benefit investors and the marketplace by permitting continued listing and trading of Shares of the Acquiring ETF following implementation of the changes described above, which changes would not impact the investment objective of the Acquiring ETF.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed changes reflect organizational and administrative changes that would be implemented as a result of the Reorganization. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2023–84 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2023–84. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2023–84 and should be submitted on or before January 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27809 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99163; File No. SR–NASDAQ–2023–055]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Definition of Commodity-Based Trust Shares in Nasdaq Rule 5711(d)(iv)(A) and To Correct a Typographical Error in Nasdaq Rule 5711(d)(iv)(B)

December 13, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2023, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq Rule 5711(d)(iv)(A) to mirror the definition of Commodity-Based Trust Shares in Section (c)(1) of Arca's Rule 8.201–E. Commodity-Based Trust Shares, as well as to correct a typographical error in Rule Nasdaq Rule 5711(d)(iv)(B).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Nasdaq Rule 5711(d)(iv)(A) to mirror the definition of Commodity-Based Trust Shares in Section (c)(1) of Arca's Rule 8.201–E. Commodity-Based Trust Shares.[3]

The Exchange proposes to conform its rule language for the definition of Commodity-Based Trust Shares to that of Arca's so that there exists no discrepancy between the definitions. Specifically, Nasdaq currently defines ''Commodity-Based Trust Shares'' as ''a security (1) that is issued by a trust (''Trust'') that holds a specified commodity deposited with the Trust; (2) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (3) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity.''

The term ''Commodity-Based Trust Shares'' will now mirror Arca's and be defined as ''a security (1) that is issued by a trust (''Trust'') that holds (a) a specified commodity deposited with the Trust, or (b) a specified commodity and, in addition to such specified commodity, cash; (2) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash.

Additionally, the Exchange proposes to correct a typographical error in Rule Nasdaq Rule 5711(d)(iv)(B) to change the Commodity Exchange Act cite from 1(a)(4) to 1a(9).

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[4] in general, and furthers the objectives of section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that its proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by harmonizing the definition of Commodity-Based Trust Shares with that of Arca and lessening any potential confusion among market participants as to its meaning.

The Exchange also believes that correcting the typographical error in Nasdaq Rule 5711(d)(iv)(B) serves to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by lessening possible confusion of market participants as to where the term ''commodity'' is defined in the Commodity Exchange Act through clarifying the rule language and enhancing transparency.

For the foregoing reasons, the Exchange believes that the proposed rule change is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal merely harmonizes the definition of Commodity-Based Trust Shares with that of Arca and lessens any potential confusion among market participants as to its meaning, as well as fixes a typographical error involving the Commodity Exchange Act that will clarify the rule language and enhance transparency.

For the foregoing reasons, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon

[3] *See* Arca Rule 8.201–E(c)(1).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

filing. The proposed rule change, which modifies the Exchange's rules by conforming the definition of Commodity-Based Trust Shares with the same definition used by another national securities exchange [10] and corrects the citation for the term ''commodity,'' as defined in the Commodity Exchange Act, raises no unique or novel legal or regulatory issues and will lessen any potential confusion among market participants. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NASDAQ–2023–055 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2023–055. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2023–055 and should be submitted on or before January 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27805 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

[10] *See supra* note 3.

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99161; File No. SR–NYSE–2023–36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Regarding Enhancements to Its DMM Program

December 13, 2023.

On October 23, 2023, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make enhancements to its Designated Market Maker (''DMM'') program. The proposed rule change was published for comment in the **Federal Register** on November 13, 2023.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission will either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 28, 2023. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change, so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates February 9, 2023, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSE–2023–36).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27785 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98869 (November 6, 2023), 88 FR 77625 (November 13, 2023) (SR–NYSE–2023–36).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Securities Act of 1933 Release No. 11258/December 13, 2023; Securities Exchange Act of 1934 Release No. 99150/December 13, 2023]

Order Approving Public Company Accounting Oversight Board Budget and Annual Accounting Support Fee for Calendar Year 2024

The Sarbanes-Oxley Act of 2002, as amended (the ''Sarbanes-Oxley Act''),[1] established the Public Company Accounting Oversight Board (''PCAOB'') to oversee the audits of companies that are subject to the securities laws, and related matters, in order to protect the

[1] 15 U.S.C. 7201 *et seq.*

interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports. Section 982 of the Dodd-Frank Wall Street Reform and Consumer Protection Act [2] amended the Sarbanes-Oxley Act to provide the PCAOB with explicit authority to oversee auditors of broker-dealers registered with the Securities and Exchange Commission (the ''Commission''). The PCAOB accomplishes these investor protection and public interest goals through the registration of public accounting firms, standard setting, inspections, and investigation and disciplinary programs. The PCAOB is subject to the comprehensive oversight of the Commission.

Section 109 of the Sarbanes-Oxley Act provides that the PCAOB shall establish a reasonable annual accounting support fee, as may be necessary or appropriate to establish and maintain the PCAOB. Under Section 109(f) of the Sarbanes-Oxley Act, the aggregate annual accounting support fee shall not exceed the PCAOB's aggregate ''recoverable budget expenses,'' which may include operating, capital, and accrued items. The PCAOB's annual budget and accounting support fee are subject to approval by the Commission. In addition, the PCAOB must allocate the annual accounting support fee among issuers and registered brokers and dealers.

Section 109(b) of the Sarbanes-Oxley Act directs the PCAOB to establish a budget for each fiscal year in accordance with the PCAOB's internal procedures, subject to approval by the Commission. Rule 190 of Regulation P (the ''Budget Rule'') governs the Commission's review and approval of PCAOB budgets and annual accounting support fees.[3] The Budget Rule provides, among other things, a timetable for the preparation and submission of the PCAOB budget and for Commission actions related to each budget, a description of the information that should be included in each budget submission, limits on the PCAOB's ability to incur expenses and obligations except as provided in the approved budget, procedures relating to supplemental budget requests, requirements for the PCAOB to provide on a quarterly basis certain budget-related information, and a list of definitions that apply to the rule and to general discussions of PCAOB budget matters.

In accordance with the Budget Rule, in March 2023 the PCAOB provided the Commission with a narrative description of its program issues and outlook for the 2024 budget year. In response, the Commission provided the PCAOB with general budgetary guidance for the 2024 budget year. The PCAOB subsequently delivered a preliminary budget and budget justification to the Commission. Staff from the Commission's Office of the Chief Accountant and Office of Financial Management dedicated a substantial amount of time to the review and analysis of the PCAOB's programs, projects, and budget estimates and participated in a number of meetings with staff of the PCAOB to further develop the understanding of the PCAOB's budget and operations. During the course of this review, Commission staff relied upon representations and supporting documentation from the PCAOB. Based on this review, the Commission issued a ''passback'' letter to the PCAOB on October 30, 2023. On November 16, 2023, the PCAOB adopted its 2024 budget and accounting support fee during an open meeting, and subsequently submitted that budget to the Commission for approval.

After considering the above, the Commission did not identify any proposed disbursements in the 2024 budget adopted by the PCAOB that are not properly recoverable through the annual accounting support fee, and the Commission believes that the aggregate proposed 2024 annual accounting support fee does not exceed the PCAOB's aggregate recoverable budget expenses for 2024.

The Commission continues to emphasize the importance of the PCAOB's identification of efficiencies and process improvements. Accordingly, the Commission requests that the PCAOB continue to evaluate its operational efficiency, improvements, and budgetary needs and submit such assessments to the Commission in connection with the 2025 budget cycle.

Coordination between the SEC and PCAOB continues to be important. The Commission directs the PCAOB during 2024 to continue to hold monthly meetings, as necessary, with the Commission's staff to discuss important policy initiatives, changes related to program areas, and significant impacts to the PCAOB's 2024 budget, including significant differences between actual and budgeted amounts and anticipated cost-savings. Separately, the Commission directs the PCAOB to continue its written quarterly updates on recent activities, including strategic initiatives, for the PCAOB's Office of Economic and Risk Analysis; Data, Security, and Technology group within the Office of the Chief Operating Officer; and Division of Registration and Inspections. The Commission expects the PCAOB to make itself available to meet with individual Commissioners on these and other topics. Further, the Commission requests that the PCAOB submit its 2023 annual report to the Commission by March 29, 2024.

The Commission understands that the Office of Management and Budget (''OMB'') has determined that the 2024 budget of the PCAOB is subject to sequestration under the Budget Control Act of 2011.[4] For 2023, the PCAOB sequestered $19.9 million. That amount will become available in 2024. For 2024, the sequestration amount will be 5.7% or $21.9 million. Consequently, we expect the PCAOB will have approximately $2.0 million less funds available from the 2023 sequestration for spending in 2024. Accordingly, the PCAOB should submit a revised spending plan for 2024 reflecting a $2.0 million reduction to budgeted expenditures as a result of the increase in sequestration amount from 2023 to 2024.The Commission has determined that the PCAOB's 2024 budget and annual accounting support fee are consistent with Section 109 of the Sarbanes-Oxley Act. Accordingly,

It is ordered, pursuant to Section 109 of the Sarbanes-Oxley Act, that the PCAOB budget and annual accounting support fee for calendar year 2024 are approved.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–27770 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

[2] Public Law 111–203, 124 Stat. 1376 (2010).

[3] 17 CFR 202.190.

[4] *OMB Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2024* (Mar. 13, 2023), *available at https://www.whitehouse.gov/wp-content/uploads/2023/03/BBEDCA_Sequestration_Report_and_Letter_3-13-2024.pdf.*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99162; File No. SR–CboeBZX–2023–105]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BZX Rule 14.11(e)(4)(C)(i) (Commodity-Based Trust Shares)

December 13, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

12, 2023, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to (1) to amend Exchange Rule 14.11(e)(4)(C)(i) (''Commodity-Based Trust Shares''); and (2) amend 14.11(e)(4)(C)(ii) to state that the term ''commodity'' is defined in section 1a(9) of the Commodity Exchange Act.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes (1) to amend Exchange Rule 14.11(e)(4)(C)(i) (''Commodity-Based Trust Shares''); and (2) to amend 14.11(e)(4)(C)(ii) to state that the term ''commodity'' is defined in section 1a(9) of the Commodity Exchange Act. The proposed rules are identical to NYSE Arca, Inc. (''Arca'') Rules 8.201–E(c)(1) and (2), respectively.[5]

Under Exchange Rule 14.11(e)(4), the Exchange may propose to list and/or trade pursuant to UTP ''Commodity-Based Trust Shares.'' [6] Rule 14.11(e)(4)(C)(1) currently states that such securities are issued by a trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity, and that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity.

The Exchange proposes to amend Rule 14.11(e)(4)(C)(1) to provide: the term ''Commodity-Based Trust Shares'' means a security (a) that is issued by a trust (''Trust'') that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash. Given the competitive marketplace for exchange listings, the Exchange is conforming its listing rules to that of another exchange.[7]

The Exchange further proposes to amend Rule 14.11(e)(4)(C)(ii) to state that the term ''commodity'' is defined in section 1a(9) of the Commodity Exchange Act (rather than section 1(a)(4) as currently referenced in Rule 14.11(e)(4)(C)(ii)) to reflect an amendment to the Commodity Exchange Act included in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[8]

Last, the Exchange proposes to correct ministerial errors in Rule 14.11(e)(4)(C)(ii) to remove several errant parentheses.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted above, the marketplace for exchange listings is highly competitive, and the Exchange's proposal is merely conforming its listing rules to that of another exchange. The Exchange believes the proposed change will facilitate the listing and trading of additional types of exchange-traded derivative securities products that will enhance competition among market participants, to the benefit of investors and the marketplace.

The Exchange's proposal to amend Rule 14.11(e)(4)(C)(ii) to state that the term ''commodity'' is defined in section 1a(9) of the Commodity Exchange Act (rather than section 1(a)(4) as currently referenced in 14.11(e)(4)(C)(ii)) reflects an amendment to the Commodity Exchange Act included in the Dodd-Frank Wall Street Reform and Consumer

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities and Exchange Act Nos. 89310 (July 14, 2020) 85 FR 43932 (July 20, 2020) (SR–NYSEArca–2020–59) (Notice of Filing of Proposed Rule Change To Amend NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) and To Permit the Listing and Trading of Shares of the United States Gold and Treasury Investment Trust Under NYSE Arca Rule 8.201–E); 90216 (October 16, 2020) 85 FR 67401 (October 22, 2020) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) and To Permit the Listing and Trading of Shares of the Wilshire [w]Shares Enhanced Gold Trust Under Amended NYSE Arca Rule 8.201–E).

[6] Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust. Rule 14.11(e)(4)(C)(i) defines the term ''Commodity-Based Trust Shares'' as follows: the term ''Commodity-Based Trust Shares'' means a security (a) that is issued by a trust (''Trust'') that holds a specified commodity deposited with the Trust; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity.

[7] *See* Arca Rule 8.201–E(c)(1).

[8] Public Law 111–203, 124 Stat. 1900 (2010).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

Protection Act of 2010.[12] Furthermore, the proposed amendment is identical to Arca Rule 8.201–E(c)(2). The Exchange also believes its proposal to correct ministerial errors in Rule 14.11(e)(4)(C)(ii) will provide clarity in the Exchange's rulebook to the benefit of all investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change to Rule 14.11(e)(4)(C)(ii) does not address competitive issues, but rather, as discussed above, is merely intended to correct a reference to a modified Commodity Exchange Act rule. The Exchange believes the proposed rule change to Rule 14.11(e)(4)(C)(i) will enhance competition by accommodating Exchange trading of additional exchange-traded products.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)[14] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[15]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The proposed rule change, which modifies the Exchange's rules by conforming the definition of Commodity-Based Trust Shares with the same definition used by another national securities exchange[17] and corrects the citation for the term ''commodity,'' as defined in the Commodity Exchange Act, raises no unique or novel legal or regulatory issues and will lessen any potential confusion among market participants. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2023–105 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2023–105. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2023–105 and should be submitted on or before January 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27786 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

[12] *Supra* note 6.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] *See supra* note 7.

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99165; File No. SR–NYSE–2023–48]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

December 13, 2023.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 11, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule (the ''Fee Schedule'') to add circuits provided by Fixed Income and Data Services (''FIDS'') for connectivity into and out of the data center in Mahwah, New Jersey (the ''MDC''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Connectivity Fee Schedule (the ''Fee Schedule'') to add circuits provided by Fixed Income and Data Services (''FIDS'') [4] for connectivity into and out of the data center in Mahwah, New Jersey (the ''MDC'').

As background, market participants that request to receive colocation services directly from the Exchange (''Users'') require wired circuits [5] to connect into and out of the MDC. A User's equipment in the MDC's colocation hall connects to a circuit leading out of the MDC, which connects to the User's equipment in their back office or another data center.

Before 2013, all such circuits were provided by ICE's predecessor, NYSE Euronext. In response to customer demand for more connectivity options, in 2013, the MDC opened two ''meet-me-rooms'' to telecommunications service providers (''Telecoms''),[6] to enable Telecoms to offer circuits into the MDC in competition with NYSE Euronext. Currently, 16 Telecoms operate in the meet-me-rooms and provide circuit options to Users requiring connectivity into and out of the MDC. As of June 1, 2023, more than 95% of the circuits for which Users contracted were supplied by Telecoms, and all but two of the Users that used FIDS circuits as of that date also connected to Telecom circuits in the MMRs.

The Exchange proposes to add several circuits provided by FIDS to the Fee Schedule. Specifically, the Exchange proposes to amend the Fee Schedule to add two different types of FIDS circuits, each available in three different sizes. Because FIDS is not a telecommunications provider, FIDS would purchase circuits from telecommunications providers, with portions allocated and sold to Users.

First, the Exchange proposes to amend the Fee Schedule to add ''Optic Access'' circuits supplied by FIDS. Users can use an Optic Access circuit to connect between the MDC and the FIDS access centers at the following five third-party owned data centers: (1) 111 Eighth Avenue, New York, NY; (2) 32 Avenue of the Americas, New York, NY; (3) 165 Halsey, Newark, NJ; (4) Secaucus, NJ (the ''Secaucus Access Center''); and (5) Carteret, NJ (the ''Carteret Access Center''). Optic Access circuits are available in 1 Gb, 10 Gb, and 40 Gb sizes.

Second, the Exchange proposes to amend the Fee Schedule to add lower-latency ''Optic Low Latency'' circuits supplied by FIDS that Users can use to connect between the MDC and FIDS's Secaucus Access Center or Carteret Access Center. Optic Low Latency circuits are available in 1 Gb, 10 Gb, and 40 Gb sizes.

The Exchange proposes to add the following chart to the Fee Schedule, under the new heading ''E. FIDS Circuits'':

Type of service	Fees
Optic Access Circuit—1 Gb	$1,500 initial charge plus $650 monthly charge.
Optic Access Circuit—10 Gb	$5,000 initial charge plus $1,900 monthly charge.
Optic Access Circuit—40 Gb	$5,000 initial charge plus $4,000 monthly charge.
Optic Low Latency Circuit—1 Gb	$1,500 initial charge plus $2,750 monthly charge.
Optic Low Latency Circuit—10 Gb	$5,000 initial charge plus $3,950 monthly charge.
Optic Low Latency Circuit—40 Gb	$5,000 initial charge plus $8,250 monthly charge.

Application and Impact of the Proposed Changes

The proposed change is not targeted at, or expected to be limited in applicability to, a specific segment of market participant. The FIDS circuits would be available for purchase for any potential User requiring a circuit between the MDC and the FIDS access centers at the third-party owned data centers listed above. The proposed changes do not apply differently to distinct types or sizes of customers. Rather, they apply to all customers equally.

Use of the services proposed in this filing are completely voluntary and available to all market participants on a non-discriminatory basis.

The proposed changes are not otherwise intended to address any other issues relating to services related to the MDC and/or related fees, and the

[4] Through its FIDS business (previously ICE Data Services), Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange is an indirect subsidiary of ICE and is an affiliate of NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change. *See* SR–NYSEAMER–2023–65, SR–NYSEARCA–2023–83, SR–NYSECHX–2023–24, and SR–NYSENAT–2023–29.

[5] In addition to wired fiber optic connections, Users may use FIDS or third-party wireless connections to the MDC. In such a case, the portion of the connection closest to the MDC is wired. Other than Telecoms, Users are the only FIDS customers with equipment physically located in the MDC.

[6] In this filing, telecommunication service providers that choose to provide circuits at the MDC are referred to as ''Telecoms.'' Telecoms are licensed by the Federal Communications Commission (''FCC'') and are not required to be, or be affiliated with, a member of the Exchange or an Affiliate SRO.

Exchange is not aware of any problems that market participants would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposed Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable. In considering the reasonableness of proposed services and fees, the Commission's market-based test considers ''whether the exchange was subject to significant competitive forces in setting the terms of its proposal . . . , including the level of any fees.'' [10] If the Exchange meets that burden, ''the Commission will find that its proposal is consistent with the Act unless 'there is a substantial countervailing basis to find that the terms' of the proposal violate the Act or the rules thereunder.'' [11] Here, the Exchange is subject to significant competitive forces in setting the terms on which it offers its proposal, in particular because substantially similar substitutes are available, and the third-party vendors are not at a competitive disadvantage created by the Exchange.

The proposed FIDS circuits would compete with circuits currently offered by the 16 Telecoms operating in the meet-me-rooms at the MDC. The Telecom circuits are reasonable substitutes for the FIDS circuits. The Commission has recognized that products do not need to be identical or equivalent to be considered substitutable; it is sufficient that they be substantially similar.[12] The circuits provided by FIDS and by the Telecoms all perform the same function: connecting into and out of the MDC. The providers of these circuits design them to perform with particular combinations of latency, bandwidth, price, termination point, and other factors that they believe will attract Users, and Users choose from among these competing services on the basis of their business needs.

The proposed FIDS circuits are sufficiently similar substitutes to the circuits offered by the 16 Telecoms even though the proposed FIDS circuits would all terminate in one of the five data centers mentioned above, while circuits from the 16 Telecoms could terminate in those locations or additional locations. While neither the Exchange nor FIDS knows the end point of any particular Telecom circuit, the Exchange understands that the Telecoms can offer circuits terminating in any location, including the five data center locations where the FIDS circuits would terminate. In addition, Users can choose to configure their pathway leading out of colocation in the way that best suits their business needs, which may include connecting to the User's equipment at one of the five data center locations that serve as termination points for the proposed FIDS circuits, or connecting first to one of those five data centers with a FIDS- or Telecom-supplied circuit and then further connecting to another remote location using a telecommunication provider-supplied circuit.

The proposed FIDS circuits do not have a distance or latency advantage over the Telecoms' circuits within the MDC. FIDS has normalized (a) the distance between the meet-me-rooms and the colocation halls and (b) the distance between the rooms where the FIDS circuits are located and the colocation halls. As a result, a User choosing whether to use the proposed FIDS circuits or Telecom circuits does not face any difference in the distances or latency within the MDC.

The Exchange also believes that the proposed FIDS circuits do not have any latency or bandwidth advantage over the Telecoms' circuits as a whole outside of the MDC. FIDS would purchase the proposed FIDS circuits from third-party telecommunications providers and would allocate and resell portions of them to Users. The Exchange believes that the Telecoms operating in the meet-me-rooms offer circuits with a variety of latency and bandwidth specifications, some of which may exceed the specifications of the proposed FIDS circuits.[13] The Exchange believes that Users consider these latency and bandwidth factors—as well as other factors, such as price and termination point—in determining which circuit offerings will best serve their business needs.[14]

In sum, the Exchange does not believe that there is anything about the proposed FIDS circuits that would make the Telecoms' circuits inadequate substitutes.

Nor does the Exchange have a meaningful competitive advantage over the Telecoms by virtue of the fact that it owns and operates the MDC's meet-me-rooms. The Exchange understands that Telecoms choose to pay fees to the Exchange for the opportunity to install equipment in the MDC's meet-me-rooms because of the financial benefits those Telecoms can accrue by selling circuits to Users. It is therefore in the Exchange's best interest to set fees at the MDC—including both the meet-me-room fees that Telecoms pay and the FIDS circuit fees that Users would pay—at a level that encourages market

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

[10] Securities Exchange Act Release No. 90209 (October 15, 2020), 85 FR 67044, 67049 (October 21, 2020) (Order Granting Accelerated Approval to Establish a Wireless Fee Schedule Setting Forth Available Wireless Bandwidth Connections and Wireless Market Data Connections) (SR–NYSE–2020–05, SR–NYSEAMER–2020–05, SR–NYSEArca–2020–08, SR–NYSECHX–2020–02, SR–NYSENAT–2020–03, SR–NYSE–2020–11, SR–NYSEAMER–2020–10, SR–NYSEArca–2020–15, SR–NYSECHX–2020–05, SR–NYSENAT–2020–08) (''Wireless Approval Order''), citing Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (''2008 ArcaBook Approval Order''). *See NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[11] Wireless Approval Order, *supra* note 10, at 67049, citing 2008 ArcaBook Approval Order, *supra* note 10, at 74781.

[12] *See* 2008 ArcaBook Approval Order, *supra* note 10, at 74789 and note 295 (recognizing that products need not be identical to be substitutable).

[13] The specifications of FIDS's competitors' circuits are not publicly known. The Exchange understands that FIDS has gleaned any information it has about its competitors through anecdotal communications, by observing customers' purchasing choices in the competitive market, and from its own experience as a purchaser of circuits from telecommunications providers to build FIDS's own networks.

[14] The fact that the FIDS circuits do not have an advantage is reflected by the fact that Users choose to use Telecom circuits for the vast majority of their circuit needs. Whereas before 2013, NYSE Euronext provided 100% of such circuits, today more than 95% of the circuits that Users have contracted for are supplied by third-party Telecoms, with FIDS supplying less than 5%.

participants, including Telecoms, to maximize their use of the MDC.[15]

Setting the FIDS circuit fees at a reasonable level makes it more likely that Users will connect into and out of the MDC. Competitive rates for circuits, whether FIDS circuits or Telecom circuits, help draw more Users and Hosted Customers [16] into the MDC, which directly benefits the Exchange by increasing the customer base to whom the Exchange can sell its colocation services (including cabinets, power, ports, and connectivity to many third-party data feeds) and encouraging greater participation on the Exchange. In other words, by setting the fees for FIDS circuits at a level attractive to Users, the Exchange spurs demand for all of the services it sells at the MDC.

If the Exchange were to set the price of the FIDS circuits too high, Users would likely respond by choosing one of the many alternative options offered by the 16 Telecoms. Conversely, if the Exchange were to offer the FIDS circuits at prices aimed at undercutting comparable Telecom circuits, the Telecoms might reassess whether it makes financial sense for them to continue to participate in the MDC's meet-me-rooms. Their departure might negatively impact User participation in colocation and on the Exchange. As a result, the Exchange is not motivated to undercut the prices of Telecom circuits.

For these reasons, the proposed change is reasonable.

The Proposed Change Is an Equitable Allocation of Fees and Credits

The Exchange believes that its proposal equitably allocates its fees among market participants. The Exchange believes that the proposed change is equitable because it would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all market participants equally.

In addition, the Exchange believes that the proposal is equitable because only market participants that voluntarily select to receive the proposed FIDS circuits would be charged for them. The proposed FIDS circuits are available to all market participants on an equal basis, and all market participants that voluntarily choose to purchase a FIDS circuit are charged the same amount for that circuit as all other market participants purchasing that type of FIDS circuit.

Moreover, any telecommunications service provider licensed by the FCC is eligible to be a Telecom operating in the MRR, irrespective of size and type. The Exchange's MMR services are available to all Telecoms on an equal basis at standardized pricing.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes its proposal is not unfairly discriminatory. The proposed change does not apply differently to distinct types or sizes of market participants. Rather, it applies to all market participants equally. The purchase of any proposed service is completely voluntary and the Fee Schedule will be applied uniformly to all market participants.

In addition, the Exchange believes that the proposal is not unfairly discriminatory because only market participants that voluntarily select to receive the proposed FIDS circuits would be charged for them. The proposed FIDS circuits are available to all market participants on an equal basis, and all market participants that voluntarily choose to purchase a FIDS circuit are charged the same amount for that circuit as all other market participants purchasing that type of FIDS circuit.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.[17]

The proposed change would not impose a burden on competition among national securities exchanges or among members of the Exchange. The proposed change would enhance competition in the market for circuits transmitting data into and out of colocation at the MDC by adding FIDS as the 17th provider of such circuits, in addition to the 16 Telecoms that also sell such circuits to Users. The proposed FIDS circuits do not have any latency, bandwidth, or other advantage over the Telecoms' circuits. The proposal would not burden competition in the sale of such circuits, but rather, enhance it by providing Users with an additional choice for their circuit needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSE–2023–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[15] *See* Securities Exchange Act Release No. 97998 (July 26, 2023), 88 FR 50238 (August 1, 2023) (SR–NYSE–2023–27) (''MMR Notice'').

[16] ''Hosting'' is a service offered by a User to another entity in the User's space within the MDC. The Exchange allows Users to act as Hosting Users for a monthly fee. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). Hosting Users' customers are referred to as ''Hosted Customers.''

[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 15 U.S.C. 78s(b)(2)(B).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2023–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2023–48 and should be submitted on or before January 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27807 Filed 12–18–23; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before January 18, 2024.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with regulations and policy, the Small Business Development Centers (SBDC's) must submit with their proposal SBA Form 1224, Grant/Cooperative Agreement Cost Sharing Proposal, to SBA for verification of the recipient's share of the project cost.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control: 3245–0140.

Title: ''SBA Form 1224, Grant/Cooperative Agreement Cost Sharing Proposal''.

Description of Respondents: SBDC Directors.

SBA Form Number: SBA Form 1224.

Estimated Number of Respondents: 168.

Estimated Annual Responses: 168.

Estimated Annual Hour Burden: 418.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–27846 Filed 12–18–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12257]

Designation of Three Entities Contributing to Ballistic Missile Proliferation

ACTION: Notice of designation.

SUMMARY: Pursuant to the authority in the Executive Order, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,'' and delegated authority, the Under Secretary of State for Arms Control and International Security, in consultation with the Secretary of the Treasury and the Attorney General, has determined that General Technology Limited, Beijing Luo Luo Technology Development Co Ltd, and Changzhou Utek Composite Company Ltd, engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by Pakistan.

DATES: The Under Secretary for Arms Control and International Security made these designations pursuant to E.O. 13382 and delegated authorities, on October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Thomas Zarzecki, Director, Office of Counterproliferation Initiatives, Bureau of International Security and Nonproliferation, Department of State, Washington, DC 20520, tel.: 202–647–5193.

SUPPLEMENTARY INFORMATION: On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 CFR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 30, 2005. In the Order the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1)

[21] 17 CFR 200.30–3(a)(12).

The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery, including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

As a result of this action, pursuant to the authority in section 1(a)(ii) of Executive Order 13382, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,'' all property and interests in property of General Technology Limited, Beijing Luo Luo Technology Development Co Ltd, and Changzhou Utek Composite Company Ltd that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Identifying information on the designees is as follows:

GENERAL TECHNOLOGY LIMITED, Level 13, 68 Yee Wo Street, Causeway Bay, Hong Kong, China; Organization Established Date 06 Apr 2018; Target Type Private Company; Registration Number 2676701 (Hong Kong) [NPWMD].

BEIJING LUO LUO TECHNOLOGY DEVELOPMENT CO LTD, Room 903, Building 1, No. 4 Wangjing Road, Chaoyang District, Beijing, China; Organization Type: Non-specialized wholesale trade [NPWMD].

CHANGZHOU UTEK COMPOSITE COMPANY LTD (a.k.a. ''CUC''), Fuhanyuan 1–812, New North District, Changzhou, Jiangsu 213022, China; website utekcomposite.com; Organization Established Date 04 Jun 2012 [NPWMD].

The three entities above have been added to the list of Specially Designated Nationals and Blocked Persons.

Gonzalo O. Suarez,

Deputy Assistant Secretary, Bureau of International Security and Nonproliferation, Department of State.

[FR Doc. 2023–27544 Filed 12–18–23; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1016]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Extended Operations (ETOPS) of Multi-Engine Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 24, 2023. The collection involves practices that permitted certificated air carriers to operate two-engine airplanes over long range routes. The FAA uses this information collection to ensure that aircraft for long range flights are equipped to minimize diversions, to preclude and prevent diversions in remote areas, and to ensure that all personnel are trained to minimize any adverse impacts of a diversion.

DATES: Written comments should be submitted by January 18, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sandra L. Ray by email at: *Sandra.ray@faa.gov;* phone: 412–546–7344

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0718.

Title: Extended Operations (ETOPS) of Multi-Engine Airplanes.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 24, 2023 (88 FR 24842). The final rule codified the previous practices that permitted certificated air carriers to operate two-engine airplanes over these long-range routes and extended the procedures for extended operations to all passenger-carrying operations on routes beyond 180 minutes from an alternate airport. This option is voluntary for operators and manufacturers. The FAA uses this information collection to ensure that aircraft for long range flights are equipped to minimize diversions, to preclude and prevent diversions in remote areas, and to ensure that all personnel are trained to minimize any adverse impacts of a diversion.

Respondents: Approximately 22 Operators and 4 Manufacturers and 6 Future Operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Burden varies per operator.

Estimated Total Annual Burden: 36,214 Hours.

Issued in Washington DC on December 14, 2023.

Sandra L. Ray,

Aviation Safety Inspector, AFS–260.

[FR Doc. 2023–27833 Filed 12–18–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, 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 Compliance, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website. (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On December 14, 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. SALAZAR BALLESTEROS, Joel Alexandro, Mexico; DOB 10 May 1992; POB Sonora, Mexico; nationality Mexico; Gender Male; C.U.R.P. SABJ920510HSRLLL19 (Mexico) (individual) [TCO] (Linked To: MALAS MANAS).

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13581 of July 24, 2011, ''Blocking Property of Transnational Criminal Organizations,'' 76 FR 44757 (July 27, 2011), as amended by Executive Order 13863 of March 15, 2019, ''Taking Additional Steps to Address the National Emergency With Respect to Significant Transnational Criminal Organizations,'' 84 FR 10255 (March 19, 2019), (E.O. 13581, as amended) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MALAS MANAS, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

2. ROMAN FLORES, Luis Eduardo, Mexico; DOB 04 Sep 1982; POB Sonora, Mexico; nationality Mexico; Gender Male; C.U.R.P. ROFL820904HSRMLS05 (Mexico) (individual) [TCO] (Linked To: MALAS MANAS).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MALAS MANAS, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

Entity

1. MALAS MANAS (Latin: MALAS MAÑAS), Sonora, Mexico; Target Type Criminal Organization [TCO].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13581, as amended, for being a foreign person that constitutes a significant transnational criminal organization.

Dated: December 14, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27866 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–6922; 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 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://ofac.treasury.gov/*).

Notice of OFAC Action

On December 14, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

1. ZAREE, Majid (a.k.a. RUQAYYAH, Abu; a.k.a. ZARE, Majid), Iran; DOB 29 Sep 1977; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to 1(a)(iii)(A) 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 acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: December 14, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27850 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons

are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–6922; 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 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://ofac.treasury.gov/*).

Notice of OFAC Action

On December 8, 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. ARDESTANI, Mohammad Mahdi Khanpour (Arabic: محمدمهدی خانپور اردستانی) (a.k.a. KHANI, Mohammad; a.k.a. KHANPUR, Ali Akbar; a.k.a. KHANPUR, Mohammad Mehdi Ali Akbar), Iran; Venezuela; DOB 21 Sep 1980; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport A37895565 (Iran) expires 25 Jul 2021; National ID No. 1189355825 (Iran) (individual) [IRAN-HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

   Designated pursuant to 1(a)(ii)(C) of Executive Order 13553 of September 28, 2010, "Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions" (E.O. 13553), 75 FR 60567, October 1, 2010, for having acted or purported to act for or on behalf of, directly or indirectly, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interests in property are blocked pursuant to E.O. 13553.

2. FARAHANI, Majid Dastjani (a.k.a. FARAHANI, Majid (Arabic: مجید فراهانی); a.k.a. FARAHANY, Majid Dastjany), Venezuela; Iran; DOB 26 Jul 1982; alt. DOB 27 Jul 1982; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0076791629 (Iran) (individual) [IRAN-HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

   Designated pursuant to 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interests in property are blocked pursuant to E.O. 13553.

Dated: December 8, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27849 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley Smith, 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 Assistant Director for Sanctions Enforcement, Compliance & Analysis, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*ofac.treasury.gov*).

Notice of OFAC Action(s)

On December 13, 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-WARDIAN, Hassan (a.k.a. ALWARDIAN, Hasan Mohamed Ali; a.k.a. AL-WARDIAN, Hassan Muhammad ʻAli (Arabic: حسن محمد علي الورديان); a.k.a. WARDYAN, Hasan), Bethlehem, West Bank; DOB 28 Dec 1954; POB Bethlehem, West Bank; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 985260348 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) 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 acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. AWADALLAH, Nizar Mohammed (a.k.a. AWADALLAH, Nazar Muhammad Mahmud; a.k.a. AWADALLAH, Nizar Bin Mohammed; a.k.a. AWADALLAH, Nizar M; a.k.a. "AWAD ALLAH, Nizar"), Sheikh Radwad, Gaza City, Gaza; DOB 11 Dec 1957; POB Gaza Strip; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 931005433 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. BARAKA, Ali Abed Al Rahman (a.k.a. BARAKA, Ali; a.k.a. BARAKAH, Ali), Sidon, Lebanon; DOB 1966; POB Lebanon; nationality Lebanon; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. OBEID, Maher Rebhi (a.k.a. OBAID, Maher Ribhi Nimr; a.k.a. OBEID, Maher bin Rebhi; a.k.a. OBEID, Maher bin Rebhi bin Namr; a.k.a. OBEID, Maher Rebhi Namr; a.k.a. "OBAID, Maher"; a.k.a. "OBEID, Maher"), Beirut, Lebanon; Amman, Jordan; DOB 10 Mar 1958; POB Amman, Jordan; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: HAMAS).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

5. KAYA, Mehmet, Turkey; DOB 01 Jan 1988; POB Mardin, Turkey; nationality Turkey; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 35006048398 (Turkey) (individual) [SDGT] (Linked To: HAMAS).

   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, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

6. YAGHMOUR, Jihad Muhammad Shaker (a.k.a. YAGHMOUR, Jihad; a.k.a. YAGHMUR, Jihat; a.k.a. YAGMUR, Cihat; a.k.a. YAGMUR, Jihat), Turkey; Yesil Vadi Caddesi 3F 72, Bashak Mah, Bashakshehir, Istanbul, Turkey; DOB 15 Jul 1967; alt. DOB 1967; alt. DOB 15 Apr 1967; POB Beit Hanina, Jerusalem, Israel; nationality Turkey; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 12180149578 (Turkey) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

7. AL-DIN, Haroun Mansour Yaqoub Nasser (Arabic: هاروم منصور يعقوب ناصرالدين) (a.k.a. ALDIN, Haroun Nasser; a.k.a. KAYA, Serkan; a.k.a. NASIR-AL-DIN, Harun Mansur Ya'qub; a.k.a. NASR-AL-DIN, Harun), Istanbul, Turkey; DOB 05 Jun 1970; POB Hebron, West Bank; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 904273463 (Palestinian); alt. National ID No. 12216148308 (Turkey) (individual) [SDGT] (Linked To: HAMAS).

   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, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

8. BARHUM, Ismail Musa Ahmad (Arabic: إسماعيل موسى أحمد برهوم) (a.k.a. BARHOUM, Ismail; a.k.a. BARHUM, Isma'il Musa Ahmad), Rafah, Gaza; DOB 23 Dec 1968; POB Rafah, Gaza Strip; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 918496571 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

interests in property are blocked pursuant to E.O. 13224.

Dated: December 13, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27814 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–NA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 706–NA, U.S. Estate (and Generation-Skipping Transfer) Tax Return.

DATES: Written comments should be received on or before February 20, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB Control Number 1545–0531 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, (202) 317–5744, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Estate (and Generation-Skipping Transfer) Tax Return Estate of Nonresident not a Citizen of the U.S.

OMB Number: 1545–0531.

Form Number: 706–NA.

Abstract: Form 706–NA is used to compute estate and generation-skipping transfer tax liability for nonresident alien decedents in accordance with section 6018 of the Internal Revenue Code. IRS uses the information on the form to determine the correct amount of tax and credits.

Current Actions: There are no changes being made to the collection at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; and Businesses or other for-profit organizations.

Estimated Number of Responses: 800.

Estimated Time per Respondent: 4 hours, 29 minutes.

Estimated Total Annual Burden Hours: 3,584.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 12, 2023.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2023–27772 Filed 12–18–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

RIN 1505–AC62

IMARA Calculation for Calendar Year 2024 Under the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (Treasury) is providing notice to the public of the insurance marketplace aggregate retention amount (IMARA) for calendar year 2024 for purposes of the Terrorism Risk Insurance Program (TRIP or the Program) under the Terrorism Risk Insurance Act, as amended (TRIA or the Act). As explained below, Treasury has determined that the IMARA for calendar year 2024 is $48,537,421,582.

DATES: The IMARA for calendar year 2024 is applicable January 1, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Lead Management and Senior Regulatory Policy Analyst, Terrorism Risk Insurance Program, Federal Insurance Office, 202–622–2922 or Theodore Newman, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, 202–622–7009.

SUPPLEMENTARY INFORMATION:

I. Background

TRIA—which established TRIP—was signed into law on November 26, 2002, following the attacks of September 11, 2001, to address disruptions in the market for terrorism risk insurance, to help ensure the continued availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events.[1] TRIA requires insurers to ''make available'' terrorism risk insurance for commercial property and casualty losses resulting from certified acts of terrorism, and provides for shared public and private compensation for such insured losses. The Program has been reauthorized four times, most recently by the Terrorism Risk Insurance Program Reauthorization Act of 2019.[2] The Secretary of the Treasury (Secretary) administers the Program, with assistance from the Federal Insurance Office (FIO).[3]

TRIA provides for an ''industry marketplace aggregate retention

[1] Public Law 107–297, sec. 101(b), 116 Stat. 2322, codified at 15 U.S.C. 6701 note. Because the provisions of TRIA (as amended) appear in a note instead of particular sections of the U.S. Code, the provisions of TRIA are identified by the sections of the law.

[2] See Terrorism Risk Insurance Extension Act of 2005, Public Law 109–144, 119 Stat. 2660; Terrorism Risk Insurance Program Reauthorization Act of 2007, Public Law 110–160, 121 Stat. 1839; Terrorism Risk Insurance Program Reauthorization Act of 2015, Public Law 114–1, 129 Stat. 3 (2015 Reauthorization Act); Terrorism Risk Insurance Program Reauthorization Act of 2019, Public Law 116–94, 133 Stat. 2534.

[3] 31 U.S.C. 313(c)(1)(D).

amount'' or ''IMARA'' to be used for determining whether Treasury must recoup any payments it makes under the Program. Under the Act, if total annual payments by all participating insurers are below the IMARA, then Treasury must recoup all amounts expended by it up to the IMARA threshold. If total annual payments by all participating insurers are above the IMARA, then Treasury has the discretionary authority (but not the obligation) to recoup all of the expended amounts that are above the IMARA threshold.[4]

TRIA provides for a schedule of defined IMARA values from calendar year 2015 through calendar year 2019.[5] For calendar year 2020 and beyond, TRIA states that the IMARA ''shall be revised to be the amount equal to the annual average of the sum of insurer deductibles for all insurers participating in the Program for the prior 3 calendar years,'' as such sum is determined pursuant to final rules issued by the Secretary.[6]

On November 15, 2019, Treasury issued a final rule for calculation of the IMARA.[7] This rule, which is codified at 31 CFR 50.4(m)(2), provides that the IMARA will be calculated by averaging the annual industry aggregate deductibles over the prior three calendar years, based upon the direct earned premiums (DEP) reported to Treasury by insurers in Treasury's annual data calls. Insurer deductibles under the Program are based upon the DEP of individual insurers reported to Treasury in the prior year (*e.g.,* 2022 DEP for 2023 calendar year program deductibles).

Accordingly, for purposes of determining the IMARA for calendar 2024, Treasury has averaged the aggregate insurer deductibles for calendar years 2023, 2022, and 2021 (as reported to Treasury in each of these years), which are based on the reported DEP for calendar years 2022, 2021, and 2020, respectively.

For purposes of the 2024 IMARA calculation, those figures are as follows:

TRIP-ELIGIBLE DEP BY INSURER CATEGORY[8]

	2021 TRIP data call		2022 TRIP data call		2023 TRIP data call	
	2020 DEP in TRIP-eligible lines	% of total	2021 DEP in TRIP-eligible lines	% of total	2022 DEP in TRIP-eligible lines	% of total
Alien Surplus Lines Ins. ...	$11,043,111,847	5	$12,107,214,064	5	$ 16,954,356,655	6
Captive Insurers	10,534,614,720	5	14,359,289,661	6	11,992,422,807	4
Non-Small Insurers	175,272,463,804	80	186,901,545,992	78	209,307,242,717	78
Small Insurers	22,156,599,520	10	26,226,080,899	11	31,206,381,036	12
Total	219,006,789,891	100	239,594,130,617	100	269,460,403,215	100

Source: 2021–2023 TRIP Data Calls.

Treasury has used these reported premiums to calculate the IMARA for calendar year 2024. The average annual DEP figure for the combined period of 2020, 2021, and 2022 is $242,687,107,903 [($219,006,789,891 + $239,594,130,617 + $269,460,403,215)/3 = $242,687,107,908]. The average aggregate deductible for the prior three years is 20 percent of $242,687,107,908, which equals $48,537,421,582.[9] Accordingly, the IMARA for purposes of calendar year 2024 is $48,537,421,582.

Dated: December 13, 2023.

Steven E. Seitz,

Director, Federal Insurance Office.

[FR Doc. 2023–27839 Filed 12–18–23; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veteran Affairs (VA), Office of Information and Technology (OIT).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that VA is modifying the system of records titled, ''Call Detail Records-VA'' (90VA194). This system is used to generate call detail records to capture information regarding calls made on telephone systems, including who made the call (calling party number), who was called (called party number), the date and time the call was made, the duration of the call, and other usages and diagnostic information elements (*e.g.,* features used, reason for call termination).

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005X6F), Washington, DC 20420. Comments should indicate that they are submitted in response to Call Detail Records—VA

[4] *See* TRIA, sec. 103(e)(7); see also 31 CFR part 50 subpart J (Recoupment and Surcharge Procedures).

[5] In 2015, the IMARA was $29.5 billion; it increased to $31.5 billion in 2016, $33.5 billion in 2017, $35.5 billion in 2018, and $37.5 billion in 2019. *See* TRIA, sec. 103(e)(6)(B).

[6] TRIA, sec. 103(e)(6)(B)(ii) and (e)(6)(C). An insurer's deductible under the Program for any particular year is 20 percent of its direct earned premium subject to the Program during the preceding year. TRIA, sec. 102(7). For example, an insurer's calendar year 2023 Program deductible is 20 percent of its calendar year 2022 direct earned premium.

[7] *See* 84 FR/62450 (November 15, 2019) (Final Rule).

[8] The figures from the 2022 and 2021 TRIP data calls were previously reported in the IMARA calculation for calendar year 2023. *See* 87 FR 78202 (December 21, 2022). The figures from the 2023 TRIP data call were previously reported in FIO's June 2023 Study on the Competitiveness of Small Insurers in the Terrorism Risk Insurance Marketplace (June 2023), 16 (Figure 1), *https://home.treasury.gov/system/files/311/2023%20TRIP%20Small%20Insurer%20Report%20FINAL.pdf,* and have been updated to include data received by FIO after the reporting deadline. Some figures may not add up on account of rounding.

[9] *See* note 7.

90VA194. Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Office of Information and Technology Privacy Officer, Gina Siefert, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; telephone (202) 632–8430 (Note: This is not a toll-free number) or *OITPRIVACY@va.gov*

SUPPLEMENTARY INFORMATION: VA is amending the system of records by revising the System Location; System Manager; Categories of Individuals Covered by the System; Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses; Policies and Practices for Storage of Records; Policies and Practices for Retrieval of Records; Policies and Practices for Retention and Disposal of Records; Record Access Procedures; Contesting Records Procedures; and Notification Procedures.

The Categories of Individuals Covered by the System is being updated to reflect ''Individuals who are assigned telephone numbers or are authorized to use VA telephone services, and individuals who receive or make calls billed to the VA.''

The System location will be updated to replace individual local VHA facilities with ''VA OIT Trusted internet Gateway Data Centers''.

The System Manager is being updated to ''Deputy Director for Operations, Unified Communications. Telephone number (202) 632–9603.''

Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses are being modified to remove current Routine Uses number 1 and number 2; and to update current language for the remaining Routine Uses, numbers 3 through 17. This system will now have 15 Routine Uses.

Policies and Practices for Storage of Records is being updated to reflect ''Records are maintained in electronic form in VA Data Centers.

Policies and Practices for Retrieval of Records is being updates to remove ''date, time, cost.''

Policies and Practices for Retention and Disposal of Records is being updated to reflect ''Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, VA Records Control Schedule 10–1 Item Number 2525.1.''

Record Access Procedures is being updated to reflect: ''Individuals wishing to request access to records pertaining to them should contact the System Manager in writing as indicated above. A request for access to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.''

Contesting Records Procedures is being updated to reflect: ''Individuals seeking to contest or amend records in this system pertaining to them should contact the System Manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.''

Notification Procedures is being updated to reflect: ''Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.''

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on November 11, 2023 for publication.

Dated: December 14, 2023.

Amy L. Rose,

Government Information Specialist, VA Privacy Service, Office of Compliance, Risk and Remediation, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Call Detail Records-VA 90VA194

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Electronic records are located in VA OIT Trusted internet Gateway Data Centers.

SYSTEM MANAGER(S):

Deputy Director for Operations, Unified Communications. Telephone number (202) 632–9603. (Note: This is not a toll-free number)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501

PURPOSE(S) OF THE SYSTEM:

The system is used to generate call detail records to capture information regarding calls made on telephone systems, including who made the call (calling party number), who was called (called party number), the date and time the call was made, the duration of the call, and other usages and diagnostic information elements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are assigned telephone numbers or are authorized to use VA telephone services, and individuals who receive or make calls billed to the VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Call detail records consist of information on VA Enterprise Telephone system telephone calls placed from VA telephones or otherwise billed to VA including the originating and destination telephone number, date and time of call, duration of call, and Originating and Terminating Devices for internal VA organizational location of telephones.

RECORD SOURCE CATEGORIES:

Records in this system are obtained from the following sources: a) Local VA telephone directories and other telephone assignment records; b) call detail records provided by suppliers of telephone services; and c) the individual on whom the record is maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Congress: To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. Data breach response and remediation, for VA: To appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist

in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. Data breach response and remediation, for another Federal agency: To another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. Law Enforcement: To a Federal, State, local, Territorial, Tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting a violation or potential violation of law, whether civil, criminal, or regulatory in nature, or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates such a violation or potential violation. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

5. Department of Justice (DoJ), Litigation, Administrative Proceeding: To the DoJ, or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

6. Contractors: To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. Office of Personnel Management (OPM): To the OPM in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

8. Equal Employment Opportunity Commission (EEOC): To the EEOC in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

9. Federal Labor Relations Authority (FLRA): To the FLRA in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised, matters before the Federal Service Impasses Panel, and the investigation of representation petitions and the conduct or supervision of representation elections.

10. Merit Systems Protection Board (MSPB): To the MSPB in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. National Archives and Records Administration (NARA): To the NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

12. Federal Agencies, Courts, Litigants, for Litigation or Administrative Proceedings:

To another Federal agency, court, or party in litigation before a court or in an administrative proceeding conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

13. Governmental Agencies, for VA Hiring, Security Clearance, Contract, License, Grant: To a Federal, State, local, or other governmental agency maintaining civil or criminal violation records, or other pertinent information, such as employment history, background investigations, or personal or educational background, to obtain information relevant to VA's hiring, transfer, or retention of an employee, issuance of a security clearance, letting of a contract, or issuance of a license, grant, or other benefit. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

14. Unions: To officials of labor organizations recognized under 5 U.S.C. chapter 71 provided that the disclosure is limited to information identified in 5 U.S.C. 7114(b)(4) that is relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions

15. Consumer Reporting Agencies: To a consumer reporting agency for the purpose of locating the individual, obtaining a consumer report to determine the ability of the individual to repay an indebtedness to the United States, or assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 5701(g)(2) and (4) have been met, provided that the disclosure is limited to information that is reasonably necessary to identify such individual or concerning that individual's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the Department.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic form in VA Data Centers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by VA organizational unit, originating telephone number, destination telephone number, location and/or duration of call.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, VA Records Control Schedule Records Control Schedule 10–1 Item Number 2525.1.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. Access to telecommunication areas at VA facilities is generally limited by appropriate locking devices and restricted to authorized employees and vendor personnel. Generally, VA areas are always locked, and the facilities are protected from outside access by the Federal Protective Service or other security personnel. 2. Access to file information or the database is controlled by VA Office of Information and Technology employees. The system recognizes authorized VA employees and Contractors by two factor authentication methods. Accessing the database remotely uses encryption and two factor authentication methods.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records pertaining to them should contact the System Manager in writing as indicated above. A request for access

to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records in this system pertaining to them should contact the System Manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURES:

Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

74 FR 17283 (April 14, 2009).

[FR Doc. 2023–27831 Filed 12–18–23; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 88 Tuesday,
No. 242 December 19, 2023

Part II

Environmental Protection Agency

40 CFR Part 52
Air Quality Implementation Plans; California; San Diego County; 2008 and 2015 8-Hour Ozone Nonattainment Area Requirements; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0135; FRL–9538–02–R9]

Air Quality Implementation Plans; California; San Diego County; 2008 and 2015 8-Hour Ozone Nonattainment Area Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of two state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or ''standards'') and the 2015 8-hour ozone NAAQS in the San Diego County ozone nonattainment area (''San Diego County area'' or ''area''). The first SIP revision, ''2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County'' (''2020 San Diego County Ozone SIP'' or ''2020 Plan''), addresses most of the SIP requirements for the area. The second SIP revision, referred to as the ''Smog Check Certification,'' supplements the motor vehicle inspection and maintenance program portion of the 2020 Plan. The EPA is proposing to approve the 2020 Plan, and the San Diego County portion of the Smog Check Certification, as meeting all the applicable ozone nonattainment area requirements for the 2008 and 2015 8-hour ozone NAAQS addressed by the plan except for the emissions statement requirement that the EPA previously found to have been met and the contingency measure requirements, for which the EPA is deferring action.

DATES: Comments must be received on or before January 18, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0135 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: John J. Kelly, Air Planning Office (AIR–2–1), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone at (415) 947–4151, or by email at *kelly.johnj@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Regulatory Context

A. Ozone Standards, Area Designations, and SIPs

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight.[1] These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints.

Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[2]

Under section 109 of the Clean Air Act (CAA or ''the Act''), the EPA promulgates NAAQS for pervasive air pollutants, such as ozone, to protect public health and welfare. Under CAA section 110, following promulgation of a new or revised NAAQS, states are required to adopt and submit plans that provide for implementation, maintenance, and enforcement of the NAAQS (referred to as State Implementation Plans or SIPs). Under CAA section 107(d), the EPA is required to designate areas throughout the nation as either attaining or not attaining the NAAQS, and states with designated nonattainment areas are required to submit SIP revisions to, among other things, provide for attainment as expeditiously as practicable but not later than the applicable attainment dates.

In 1979, the EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period (''1979 ozone NAAQS'').[3] In 1997, the EPA revised the primary

[1] The State of California refers to reactive organic gases (ROG) in some of its ozone-related SIP submissions. As a practical matter, ROG and VOC refer to the same set of chemical constituents, and for the sake of simplicity, we refer to this set of gases as VOC in this proposed rule.

[2] ''Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone,'' dated March 2008.

[3] 44 FR 8202 (February 8, 1979). When the CAA was amended in 1990, each area of the country that was designated nonattainment for the 1979 ozone NAAQS, including the San Diego area, was classified by operation of law as nonattainment and classified as Marginal, Moderate, Serious, Severe, or Extreme depending on the severity of the area's air quality problem. The EPA redesignated the San Diego County area from Serious nonattainment to attainment for the 1979 ozone NAAQS, effective July 28, 2003. 68 FR 37976 (June 26, 2003).

and secondary standards for ozone in the ambient air to 0.08 ppm averaged over an 8-hour period (''1997 ozone NAAQS'').[4]

In 2008, the EPA lowered the 8-hour ozone NAAQS to 0.075 ppm (''2008 ozone NAAQS'').[5] Then in 2015, the EPA further lowered the 8-hour ozone NAAQS to 0.070 ppm (''2015 ozone NAAQS'').[6] On December 31, 2020, the EPA finalized its most recent periodic review of the ozone NAAQS, retaining the form and level of the standards.[7] The EPA has revoked both the 1979 ozone NAAQS and the 1997 ozone NAAQS but not the 2008 ozone NAAQS.[8]

In 2012, the EPA designated San Diego County as nonattainment for the 2008 ozone NAAQS and classified the area as ''Marginal.'' [9] Areas classified as Marginal must attain the NAAQS within three years of the effective date of the nonattainment designation.[10] Following this initial classification as Marginal, the EPA found in 2016 that the area did not attain the 2008 ozone standards by the Marginal attainment deadline of July 20, 2015.[11] As a result of our finding, the area was reclassified by operation of law to Moderate nonattainment.[12] Moderate nonattainment areas have six years to attain the standard. Following the Moderate attainment deadline of July 20, 2018, the EPA found that the area did not attain the 2008 ozone standards.[13] As a result of our finding, the area was reclassified by operation of law to Serious nonattainment, with a Serious attainment deadline of July 20, 2021, nine years after the effective date of designation as a nonattainment area for the 2008 ozone NAAQS. In response to a letter to the EPA dated January 8, 2021 from the California Air Resources Board (CARB), the EPA reclassified the area to Severe for the 2008 ozone NAAQS.[14] In the same letter, CARB requested that the EPA also reclassify the area as Severe for the 2015 ozone NAAQS. The EPA's initial designation for the San Diego County area for the 2015 ozone NAAQS was nonattainment, with a Moderate classification.[15] The San Diego County area is now classified as Severe for both the 2008 and the 2015 ozone NAAQS.[16]

Designations of nonattainment for a given NAAQS trigger requirements under the CAA to prepare and submit SIP revisions. The SIP revision that is the subject of this proposed action addresses the Severe nonattainment area requirements that apply to the San Diego County area for the 2008 and the 2015 ozone NAAQS.

Under California law, CARB is the state agency that is responsible for the adoption and submission to the EPA of California SIPs and SIP revisions, and it has broad authority to establish emissions standards and other requirements for mobile sources and certain area sources, such as consumer products. Local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of regional air quality management plans (''plans''). In the San Diego County area, the San Diego County Air Pollution Control District (SDCAPCD or ''District'') develops and adopts plans to address CAA planning requirements applicable to that area. Such plans are then submitted to CARB for adoption and submittal to the EPA as revisions to the California SIP.

B. The San Diego County Ozone Nonattainment Area

The San Diego County area is located in the southwestern-most portion of the State of California, and its boundaries generally align with those of San Diego County. For a precise description of the geographic boundaries of the San Diego County area for both the 2008 and 2015 ozone NAAQS, see 40 CFR 81.305.

Prior plans and state control measures developed by the District and CARB have produced significant emissions reductions over the years and improved air quality in the area. For instance, the 8-hour ozone design value for the San Diego County area decreased from 0.095 ppm to 0.079 ppm from 2002 to 2022,[17] despite increases in population and vehicular activity.

Under certain weather conditions, the San Diego County area is downwind from the Los Angeles-South Coast Air Basin (''South Coast'') and, under certain other weather conditions, from Mexico, and is subject to transport of ozone from those areas. The South Coast is regulated by the South Coast Air Quality Management District (SCAQMD). The 2020 Plan describes ozone transport from these areas as follows:

> . . . air pollution from both regions significantly contribute to ozone levels in the San Diego region under certain weather conditions. This impact is acknowledged in State documentation and regulation. Importantly . . . SCAQMD has implemented effective emissions control programs, resulting in a trend of emission reductions and air quality improvements in the South Coast region. Though the region is designated as an Extreme Nonattainment Area for the 2008 and 2015 ozone NAAQS, SCAQMD predicts continued ozone reductions through at least 2031 as shown in their SIP for the 2008 ozone NAAQS. In turn, air pollution transported to San Diego County is expected to decrease as a result of their actions.[18]

Because of the transport from the South Coast into the San Diego County area, continued progress in the South Coast towards meeting the 2008 and 2015 ozone NAAQS is expected to help the San Diego County area attain these ozone NAAQS.

C. Clean Air Act and Regulatory Requirements for 2008 and 2015 Ozone Nonattainment Area SIPs

States must implement the 2008 and 2015 ozone NAAQS under title I, part D

[4] 62 FR 38856 (July 18, 1997). In 2004, the EPA designated areas of the country with respect to the 1997 ozone NAAQS. See 69 FR 23858 (April 30, 2004). The EPA redesignated the San Diego County area from Moderate nonattainment to attainment for the 1997 ozone NAAQS, effective July 5, 2013. 78 FR 33230 (June 4, 2013).

[5] 73 FR 16436 (March 27, 2008).

[6] 80 FR 65292 (October 26, 2015).

[7] 85 FR 87256. The SIP revision that is the subject of this proposed action relates to the requirements for the 2008 and 2015 ozone standards.

[8] 40 CFR 50.9(b) and 40 CFR 50.10(c).

[9] 77 FR 30087 (May 21, 2012), effective July 20, 2012.

[10] CAA section 181(a)(1); 40 CFR 51.1102 and 51.1103(a).

[11] 81 FR 26697 (May 4, 2016).

[12] The State of California submitted the San Diego County area's 2016 Moderate ozone attainment plan and the 2016 Moderate ozone RACT demonstration to the EPA as a SIP revision on April 12, 2017. The State withdrew the 2016 Moderate ozone attainment plan by letter dated December 16, 2021, following submittal of the 2020 plan and the EPA's grant of the State's request to reclassify San Diego County to Severe for the 2008 ozone NAAQS. The EPA approved the 2016 Moderate ozone RACT demonstration at 85 FR 77996 (December 3, 2020), 87 FR 38665 (June 29, 2022) and 88 FR 2538 (January 17, 2023).

[13] 84 FR 44238 (August 23, 2019).

[14] Letter dated January 8, 2021 from Richard Corey, Executive Officer, California Air Resources Board, to John Busterud, Regional Administrator, U.S. EPA Region IX; 86 FR 29522 (June 2, 2021), effective July 2, 2021.

[15] 83 FR 25776 (June 4, 2018). Severe areas must attain the standard as expeditiously as practicable, but not later than 15 years after the effective date of designation. For the 2008 ozone NAAQS, the Severe attainment deadline is July 20, 2027. However, note that for attainment modeling purposes we refer to the attainment year as 2026. For the 2015 ozone NAAQS, the Severe attainment deadline is August 3, 2033, with a 2032 attainment year.

[16] 86 FR 29522 (June 2, 2021), effective July 2, 2021.

[17] Three design value reports (EPA, Air Quality Design Value Report, July 12, 2011; San Diego 2008 Ozone Trends Report, U.S. EPA Air Quality System, May 8, 2023; and San Diego 2015 Ozone Trends Report, U.S. EPA Air Quality System, May 8, 2023), are included in the docket for this action. For the 2008 and 2015 ozone NAAQS, the design value at any given monitoring site is the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration. The maximum design value among the various ozone monitoring sites is the design value for the area.

[18] 2020 Plan, p. 13.

of the CAA, including sections 171–179B of subpart 1 (''Nonattainment Areas in General'') and sections 181–185 of subpart 2 (''Additional Provisions for Ozone Nonattainment Areas''). To assist states in developing effective plans to address ozone nonattainment problems, in 2015, the EPA issued a SIP Requirements Rule (SRR) that addresses implementation of various aspects of the 2008 ozone NAAQS (''2008 Ozone SRR''), including attainment dates, requirements for emissions inventories, attainment demonstrations, and reasonable further progress (RFP) demonstrations, among other SIP elements. The 2008 Ozone SRR also addresses the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and associated anti-backsliding requirements.[19] In 2018, the EPA also issued an SRR for the 2015 ozone NAAQS (''2015 Ozone SRR'') that addresses implementation of the 2015 standards.[20] The regulatory requirements of the 2008 Ozone SRR are codified at 40 CFR part 51, subpart AA; those for the 2015 Ozone SRR are codified in 40 CFR part 51, subpart CC. We discuss the CAA and regulatory planning requirements for the elements of 2008 and 2015 ozone plans relevant to this proposed action in more detail in Section III of this document.

II. Submission From the State of California To Address Ozone Requirements in San Diego County

A. Summary of State Submissions

1. SDCAPCD's 2020 Attainment Plan

On January 12, 2021, CARB submitted the 2020 Plan to the EPA as a revision to the California SIP.[21] The 2020 Plan addresses many of the nonattainment area requirements for the San Diego County area for both the 2008 and the 2015 8-hour ozone NAAQS. In this document, we are proposing action on the 2020 Plan that addresses both the 2008 and 2015 8-hour ozone NAAQS for the San Diego County area.

The 2020 Plan SIP submittal includes the various sections and attachments of the plan, plus the District's resolution of approval for the plan (District Resolution 20–166) and CARB's resolution of adoption of the plan as a revision to the California SIP (CARB Resolution 20–29).[22] The 2020 Plan includes a District commitment to achieve additional emissions reductions beyond those expected to occur from already-implemented control measures and relies on a similar commitment by CARB. More specifically, the 2020 Plan includes a commitment by the District to achieve an additional 1.7 tons per day (tpd) reduction in NO_X by 2032 [23] and relies on CARB's commitment to achieve aggregate emissions reductions in San Diego County of 4 tpd of NO_X by 2032.[24] Both commitments are part of the 2020 Plan's attainment demonstration for the 2015 ozone NAAQS. With respect to both the 2008 and the 2015 ozone NAAQS, the 2020 Plan addresses the CAA requirements for emissions inventories, air quality modeling demonstrating attainment, reasonably available control measures (RACM), RFP, transportation control strategies and measures, new source review (NSR), contingency measures for failure to make RFP or to timely attain the relevant standards, and motor vehicle inspection and maintenance (I/M) programs (also referred to as ''smog check'' programs), among other requirements. The 2020 Plan also addresses the emissions statement requirement, and in separate action, the EPA approved the emissions statement portion of the 2020 Plan as meeting the applicable requirements for emissions statements for the 2008 and 2015 ozone NAAQS.[25]

The 2020 Plan is organized into an executive summary, five sections, and attachments lettered A through Q. Section 1, ''Introduction and Overview,'' introduces the 2020 Plan, including its purpose, the two ozone NAAQS it addresses, current air quality in the area in comparison with those NAAQS, historical air quality progress in San Diego County, and the District's approach to air quality planning. Section 2, ''General Attainment Plan Requirements,'' addresses CAA requirements that apply to the area as nonattainment for both the 2008 and the 2015 ozone NAAQS. Section 3, ''2008 Eight Hour Ozone NAAQS Attainment Plan Requirements,'' addresses CAA requirements that apply to the area as nonattainment specifically for the 2008 ozone NAAQS, including anti-backsliding requirements for the revoked 1979 and 1997 ozone standards. Section 4, ''2015 Eight Hour Ozone NAAQS Attainment Plan Requirements,'' addresses CAA requirements that apply to the area as nonattainment specifically for the 2015 ozone NAAQS, including anti-backsliding requirements for revoked standards. Section 5, ''Conclusions,'' presents the District's conclusions regarding whether the 2020 Plan meets applicable Clean Air Act requirements.

The 2020 Plan also includes technical attachments:

- Attachment A (''Emissions Inventories and Documentation for Baseline, RFP, and Attainment Years'') presents tables, analysis, and documentation for the emissions inventories included in the plan.
- Attachment B (''Planned Military Projects Subject to General Conformity'') contains annual data compiled by the United States Marine Corps (USMC) and Department of the Navy (DoN) for emissions changes resulting from USMC and DoN projects out to year 2037, for the purpose of demonstrating general conformity for USMC and DoN facilities in the area.
- Attachment C (''Planned San Diego International Airport Projects Subject to General Conformity'') is a report that provides an emissions inventory for the San Diego International Airport, for the purpose of demonstrating general conformity for the airport.
- Attachment D (''CARB Control Measures, 1985 to 2019'') is a listing of CARB control measures from 1985 to 2019.
- Attachment E (''CARB Analyses of Key Mobile Source Regulations and Programs Providing Emission Reductions'') describes CARB's mobile source regulations and programs that provide emissions reductions in the San Diego County area.
- Attachment F (''Pre-Baseline Banked Emission Reduction Credits'') describes emission reduction credits that were banked before the baseline year.
- Attachment G (''Analyses of Potential Additional Stationary Source Control Measures'') provides the District's analysis of the feasibility of additional stationary source control measures that could be pursued in the area.
- Attachment H (''Implementation Status of Transportation Control Measures'') provides the implementation status of transportation control measures by the San Diego Association of Governments (SANDAG) and other transportation agencies.
- Attachment I (''CARB Analyses of Potential Additional Mobile Source and Consumer Products Control Measures'')

[19] 80 FR 12264 (March 6, 2015). Anti-backsliding requirements are the provisions applicable to revoked NAAQS (including the 1979 1-hour ozone NAAQS and the 1997 ozone NAAQS).

[20] 83 FR 62998 (December 6, 2018).

[21] Letter (with enclosures) dated January 8, 2021, from Richard Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX (submitted electronically January 12, 2021).

[22] SDCAPCD Board Resolution 20–166, October 14, 2020; CARB Board Resolution 20–29, Proposed San Diego 8-Hour Ozone State Implementation Plan Submittal, November 19, 2020 (''CARB Board Resolution 20–29'').

[23] 2020 Plan, at 58, 81–82.

[24] CARB Board Resolution 20–29, at 6.

[25] 87 FR 45657 (July 29, 2022).

analyzes the potential for further mobile source and consumer products controls in the area.

- Attachment J (''Calculation of Cumulative Potential Emission Reductions for Possible Reasonably Available Control Measures (RACM)'') calculates the cumulative potential emissions reductions in the area in support of the plan's RACM demonstration.
- Attachment K (''Modeling Protocol & Attainment Demonstration for the 2020 San Diego Ozone SIP'') provides the modeling protocol and attainment demonstration for the San Diego County area as Severe nonattainment for both the 2008 and the 2015 ozone NAAQS.
- Attachment L (''Modeling Emission Inventory for the Ozone State Implementation Plan in San Diego County'') describes the modeled or ''gridded'' emissions inventories for the area, in support of the area's two modeled attainment demonstrations.
- Attachment M (''Weight of Evidence Demonstration for San Diego County'') provides a weight-of-evidence demonstration for the area, in support of the area's modeled attainment demonstrations.
- Attachment N (''VMT Offset Demonstration for San Diego County'') provides the area's VMT offset demonstration.
- Attachment O (''Contingency Measures for San Diego County'') represents the District's assessment of compliance with the contingency measure requirements for the area.
- Attachment P (''Federal Clean Air Act Requirements and References in Attainment Plan'') provides a summary of CAA requirements that apply to the area with specific citations to locations in the plan that address those requirements.
- Attachment Q (''Endnotes'') contains the text of all endnotes found in the plan.

Attainment of the 2008 and the 2015 ozone NAAQS in the San Diego County area is dependent on emissions reductions occurring in the adjacent South Coast nonattainment area. The 2016 South Coast Ozone SIP documents baseline emissions reductions from already-adopted control measures and provides for new emissions reductions to be achieved through fulfillment of SCAQMD and CARB commitments for further reductions, and through new technology measures.[26] More specifically, as discussed in Section III.D, ''Attainment Demonstration,'' of the EPA's proposed approval of the 2016 South Coast Ozone SIP,[27] the ozone attainment demonstrations for South Coast for the 1997 and 2008 ozone NAAQS include emissions reduction commitments made by the SCAQMD in the 2016 AQMP and by CARB in the ''Revised Proposed 2016 State Strategy for the State Implementation Plan'' (''2016 State Strategy'').

The 2016 State Strategy focuses on two areas: the South Coast and the San Joaquin Valley. Although it did not include specific emissions reduction commitments for San Diego County, CARB states that, ''[s]hould additional areas require emission reductions to meet the current ozone and $PM_{2.5}$ standards, ARB will quantify area and year specific reductions as part of individual attainment plans.'' [28] The 2020 Plan for the 2015 ozone NAAQS relies on CARB's commitment to achieve 4 tpd of NO_X emissions reductions in 2032 from mobile sources to demonstrate attainment of this standard in San Diego County.[29]

2. Smog Check Certification

On April 26, 2023, CARB submitted the ''California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard'' (''Smog Check Certification'') to supplement the motor vehicle I/M portion of the 2020 Plan.[30] The Smog Check Certification includes CARB's evaluation of the California Smog Check program for compliance with the applicable I/M performance standard as defined in EPA's regulations for certain nonattainment areas for the 2008 and 2015 ozone NAAQS, including San Diego County.

CARB's SIP submittal package for the Smog Check Certification includes CARB Resolution 23–9, through which CARB adopted the Smog Check Certification as part of the California SIP,[31] public notice of CARB's hearing on the proposed SIP revision, public comments and responses, and MOVES [32] input and output data sheets. In this document, we are proposing action on the San Diego County portion of the Smog Check Certification as a supplement to the vehicle I/M portion of the 2020 Plan.

B. Clean Air Act Procedural Requirements for Adoption and Submission of SIP Revisions

CAA sections 110(a) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity to submit written comments and request a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

Both the District and CARB have satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to the adoption and submittal of the 2020 Plan. The District held two public webinars, one in July and another in August, 2020, and held a hearing on October 14, 2020, to discuss the plan and solicit public input.[33] On September 14, 2020, the District published a notice in a local newspaper of the public hearing to be held on October 14, 2020, to consider approval of the 2020 Plan.[34] On October 14, 2020, the District held the public hearing, and on that same date, through Resolution 20–166, the District board approved the 2020 Plan and directed the Air Pollution Control Officer to forward its resolution and the 2020 Plan to CARB for submittal to the EPA for inclusion in the California SIP.

Upon receipt of the 2020 Plan from the District, CARB also provided public notice and opportunity for public comment on the plan. On October 16, 2020, CARB released for public review its staff report for the 2020 Plan (''CARB Staff Report'') [35] and published a notice of public meeting to be held on November 19, 2020, to consider

[26] 84 FR 28132 (June 17, 2019), at 28134–28134, tables 10 and 11. The EPA finalized its approval of the 2016 South Coast Ozone SIP at 84 FR 52005 (October 1, 2019).

[27] 84 FR 28132, 28143–28157 (June 17, 2019),

[28] 2016 State Strategy, 35.

[29] CARB Review of the 2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County, Release Date: October 16, 2020, at 11; CARB Board Resolution 20–29, at 6.

[30] Letter (with enclosures) dated April 26, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX (submitted electronically April 26, 2023).

[31] CARB Board Resolution 23–9, March 23, 2023.

[32] MOVES is the acronym for the EPA's Motor Vehicle Emission Simulator model.

[33] Letter dated October 20, 2020,from Robert Reider, Interim Director, SDCAPCD, to Richard Corey, CARB Executive Officer. See the letter's response to comments document regarding the two webinars and its ''Minute Order'' document regarding the public hearing.

[34] Id. See the October 20, 2020 letter's proof of publication document regarding public notice for the October 14, 2020 public hearing.

[35] CARB Review of the 2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County, Release Date: October 16, 2020.

adoption of the 2020 Plan as a revision to the California SIP.[36] On November 19, 2020, CARB held the hearing and adopted the 2020 Plan as a revision to the California SIP and directed the Executive Officer to submit the 2020 Plan to the EPA for approval into the California SIP.[37] On January 12, 2021, the Executive Officer of CARB submitted the 2020 Plan to the EPA. Six months after submittal, on July 12, 2021, the 2020 Plan became complete by operation of law.[38]

CARB has also satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to the adoption and submittal of the Smog Check Certification. On February 10, 2023, CARB released for public review the draft Smog Check Certification and published a notice of public meeting to be held on March 23, 2023, to consider adoption of the Smog Check Certification as a revision to the California SIP.[39] On March 23, 2023, CARB held the hearing and adopted the Smog Check Certification as a revision to the California SIP and directed the Executive Officer to submit the Smog Check Certification to the EPA for approval into the California SIP.[40] On April 26, 2023, the Executive Officer of CARB submitted the Smog Check Certification to the EPA.

Based on information provided in the SIP revisions submitted on January 12, 2021 and April 26, 2023, and summarized in Section II.A this document, the EPA has determined that all hearings were properly noticed and that a reasonable opportunity to submit written comments was provided. Therefore, we find that the submittal of the 2020 Plan and the Smog Check Certification meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102.

III. Evaluation of the 2020 San Diego County Ozone SIP

A. Emissions Inventories

1. Statutory and Regulatory Requirements

CAA sections 172(c)(3) and 182(a)(1) require states to submit for each ozone nonattainment area a ''base year inventory'' that is a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area. In addition, the 2008 Ozone SRR and the 2015 Ozone SRR require that the inventory year be selected consistent with the baseline year for the RFP demonstration, which is the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements (AERR) at the time of designation for the ozone NAAQS.[41] For the 2008 ozone NAAQS, the baseline year for the RFP demonstration is 2011, and for the 2015 ozone NAAQS, the base year for the RFP demonstration is 2017.

The EPA has issued guidance on the development of base year and future year emissions inventories for 8-hour ozone and other pollutants.[42] Emissions inventories for ozone must include emissions of VOC and NO_X and represent emissions for a typical ozone season weekday.[43] States should include documentation explaining how the emissions data were calculated. In estimating mobile source emissions, states should use the latest emissions models and planning assumptions available at the time the SIP is developed.[44]

Future baseline emissions inventories must reflect the most recent population, employment, travel, and congestion estimates for the area. In this context, ''baseline'' emissions inventories refer to emissions estimates for a given year and area that reflect rules and regulations and other measures that are already adopted. Future baseline emissions inventories are necessary to show the projected effectiveness of SIP control measures. Both the base year and future year inventories are necessary for photochemical modeling to demonstrate attainment.

2. Summary of State's Submission

The 2020 Plan includes three sets of base year and future year average summer day baseline inventories for NO_X and VOC for the San Diego County area, for both the 2008 and 2015 ozone NAAQS.[45] One set of base year and future year baseline emissions inventories reflects emissions within the San Diego County area and includes marine emissions out to 100 nautical miles (NM) from the coast. A second set of emissions inventories adds emissions from the South Coast Air Basin to those generated within the San Diego County area (plus marine emissions out to 100 NM from the coast) to produce combined inventories. A third set of emissions inventories reflects San Diego County area emissions including marine emissions but only out to three NM from the coast. All three sets of inventories include the years 2011, 2017, 2020, 2023, 2026, 2029 and 2032.

Documentation for the inventories is found in Sections 3 and 4 of the 2020 Plan, addressing the 2008 and 2015 ozone NAAQS, respectively, as well as in the Plan's Attachment A. Because ozone levels in the area are typically highest during the summer months, the inventories provided in the 2020 Plan represent average summer day emissions from May through October. The inventories in the 2020 Plan reflect District rules adopted through the end of calendar year 2019 and CARB rules adopted through the end of calendar year 2017. For estimating on-road motor vehicle emissions, these inventories use EMFAC2017, the EPA-approved version of California's mobile source emissions model available at the time the 2020 Plan was developed.[46]

The VOC and NO_X emissions estimates are grouped into two general categories, stationary sources and mobile sources. Stationary sources are further divided into ''point'' and ''area'' sources. Point sources typically refer to stationary sources that are permitted facilities and have one or more identified and fixed pieces of equipment and emissions points. Area sources consist of widespread and numerous smaller emissions sources, such as consumer products, fireplaces and agricultural burning.[47] The mobile

[36] Notice of Public Meeting to Consider Approval of the Proposed San Diego 8-Hour Ozone State Implementation Plan Submittal, signed by Richard Corey, Executive Officer, CARB, October 16, 2020.

[37] CARB Resolution 20–29, 6.

[38] CAA section 110(k)(1)(B).

[39] Notice of Public Meeting to Consider the Proposed California Smog Check Performance Standard Modeling and Program Certification for the 70 parts per billion 8-hour Ozone Standard, signed by Steven S. Cliff, Ph.D., Executive Officer, CARB, February 10, 2023.

[40] CARB Resolution 23–9, 6.

[41] 2008 Ozone SRR at 40 CFR 51.1115(a) and 40 CFR 51.1110(b), 2015 Ozone SRR at 40 CFR 51.1315(a) and 40 CFR 51.1310(b), and the Air Emissions Reporting Requirements at 40 CFR part 51, subpart A.

[42] ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/B–17–002, May 2017, available in the docket for this action and at *https://www.epa.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate*.

[43] For 2008 ozone, 40 CFR 51.1115(a) and (c), and 40 CFR 51.1100(bb) and (cc). For 2015 ozone, 40 CFR 51.1315(a) and (c), and 40 CFR 51.1300(p) and (q).

[44] 80 FR 12264, 12290 (March 6, 2015); 83 FR 62998, 63022 (December 6, 2018).

[45] 2020 Plan, Attachment A.

[46] EMFAC is short for EMission FACtor. The EPA announced the availability of the EMFAC2017 model for use in state implementation plan development and transportation conformity in California on August 15, 2019. 84 FR 41717. The EPA's approval of the EMFAC2017 emissions model for SIP and conformity purposes was effective on the date of publication of the notice in the **Federal Register**.

[47] 2020 Plan, p. A–30.

sources category is divided into two major subcategories, ''on-road'' and ''off-road'' mobile sources. On-road mobile sources include light-duty automobiles, light-, medium-, and heavy-duty trucks, and motorcycles. Off-road mobile sources include aircraft, locomotives, construction equipment, mobile equipment, and recreational vehicles.

Point source (also referred to as ''stationary source'') emissions for the 2011 and 2017 base year emissions inventories are calculated using reported data from facilities using the District's annual emissions reporting program, which applies under District Rule 19.3 to stationary sources in the San Diego County area that emit 25 tons per year (tpy) or more of VOC or NO_X. Area sources include smaller emissions sources distributed across the nonattainment area. CARB and the District estimate emissions for numerous area source categories using established inventory methods, including publicly available emissions factors and activity information. Specific estimates are included in the 2020 Plan for area source categories: consumer products, architectural coatings and related process solvent use, pesticides and fertilizers, asphalt paving and roofing, residential fuel combustion, farming operations, fires, managed burning and disposal, and cooking.

On-road emissions inventories in the 2020 Plan are calculated using CARB's EMFAC2017 model and the travel activity data provided by SANDAG in SANDAG's 2018 adopted Regional Transportation Improvement Program.[48] CARB provided emissions inventories for off-road equipment, including construction and mining equipment, industrial and commercial equipment, lawn and garden equipment, agricultural equipment, ocean-going vessels, commercial harbor craft, locomotives, cargo handling equipment, pleasure craft, and recreational vehicles. CARB used several models to estimate emissions for off-road equipment categories.[49] Aircraft emissions inventories are developed in conjunction with the airports in the region. In particular, an emissions analysis was included in the 2020 Plan for the San Diego International Airport.[50]

The 2020 Plan distinguishes between emissions sources within San Diego County, which includes coastal emissions (including marine vessel emissions) within three NM of the coastline, and emissions sources operating outside the county but within 100 NM of the coastline. The base year emissions inventory reflects only those emissions sources that operate within the nonattainment area (*i.e.,* within three NM of the coastline), but offshore emissions sources affect ozone concentrations in the nonattainment area and thus are included in the emissions inventories used for the attainment demonstrations in the 2020 Plan.

The calendar year 2017 is the base year in the 2020 Plan for both the 2008 and 2015 ozone NAAQS because 2017 the most recent calendar year for which a complete triennial inventory was required to be submitted to the EPA under the provisions of 40 CFR part 51, subpart A at the time of plan development. The 2020 Plan includes an emissions inventory for an earlier year, *i.e.,* calendar year 2011, because that year is the RFP baseline year for the 2008 ozone NAAQS. The 2017 base year inventory was used to forecast all future years for area and mobile sources and to ''backcast'' such sources for 2011.[51]

To develop the 2011 inventory, CARB relied on actual emissions reported from industrial point sources for 2011 and backcast emissions from 2017 for smaller stationary and certain area sources.[52] Area source emissions from pesticide were developed by CARB based on actual emissions reported for 2011, while those from agricultural burning were developed by CARB based on actual emissions reported for 2008 that were ''grown'' (that is, projected forward from 2008, based on estimated changes in agricultural burning) to 2011. CARB produced 2011 on-road emissions estimates using EMFAC2017. Non-road emissions were either backcast from 2017 (commercial aircraft and military ocean-going vessels) or were estimated using CARB's OFFROAD2007 model.[53]

For the 2020 Plan, CARB used the California Emission Projection Analysis Model (CEPAM), 2019 SIP Baseline Emission Projections, Version 1.00 to develop future year emissions forecasts (*i.e.,* 2020, 2023, 2026, 2029 and 2032).[54] In doing so, CARB reviewed the growth and control factors for each category and relevant year along with the resulting emissions projections.[55] CARB compared year-to-year trends to similar and past datasets to ensure general consistency, checked emissions for specific categories to confirm they reflect the anticipated effects of applicable control measures, and verified mobile source categories with CARB mobile source staff for consistency with the on-road and off-road emission models.[56]

In developing the 2020 Plan, the District worked with the Department of the Navy and the United States Marine Corps to identify specific growth increments from future anticipated actions to include in the baseline emissions forecasts for use by the military to comply with the applicable general conformity regulations. The District then coordinated with CARB to include the growth increments or ''budgets'' in the applicable source categories in the CEPAM model used by CARB to develop the future year emissions inventories. More specifically, the CEPAM model runs used for the future year emissions estimates in the 2020 Plan reflect a military growth increment of 1.08 tpd of VOC and 8.34 tpd of NO_X for all future years addressed in the plan.[57] Similarly, the District worked with the San Diego County Regional Airport Authority to identify a growth increment for future anticipated actions at San Diego International Airport (SDIA) for use in connection with the general conformity regulations. The growth increment for SDIA for all future year emissions estimates in the 2020 Plan is 0.141 tpd of VOC and 1.756 tpd for NO_X.[58] Section III.H of this document provides further information on the military and SDIA growth increments reflected in the 2020 Plan.

The future year emissions estimates in the 2020 Plan include two additional specific adjustments—one to account for pre-base year emissions reduction credits (ERCs) and one to account for the EPA's rescission, in a final action referred to as ''SAFE 1,'' of a waiver of preemption of CARB's light-duty vehicle zero emission vehicle (ZEV) sales mandate and greenhouse gas (GHG) standards.[59]

Under the EPA's SIP regulations for nonattainment new source review (NSR) programs, a state may allow new major stationary sources or major modifications to use as offsets ERCs that were generated through shutdown or

[48] Id. at A–35. SANDAG is the metropolitan planning organization (MPO) for San Diego County.

[49] Id. at A–36.

[50] Id., Attachment C, ''Planned San Diego International Airport Projects Subject to General Conformity.''

[51] Id. at Q–2, footnote 29.

[52] Id.

[53] Email dated March 21, 2023, from Nick Cormier, SDCAPCD to John J. Kelly, EPA, Subject: ''FW: 2011 emission inventory in SD's 2020 ozone plan.''

[54] 2020 Plan, Attachment A, Section A.8.

[55] Id.

[56] Id.

[57] 2020 Plan, Section 2.1.3.1 and Attachment B.

[58] Id., Section 2.1.3.2 and Attachment C.

[59] ''The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program'' (SAFE 1), 84 FR 51310 (September 27, 2019).

curtailed emissions units occuring before the base year of an attainment plan. However, to use such ERCs, the projected emissions inventories used to develop the RFP and attainment demonstration must explicitly include the emissions from such previously shutdown or curtailed emissions units.[60] The District has elected to provide for use of pre-base year ERCs as offsets by explicitly including such ERCs in the future year emissions estimates in the 2020 Plan. The ERC set-aside in the 2020 Plan amounts to 0.71 tpd of VOC and 0.56 tpd of NO_X.[61]

The ''EMFAC2017 Adjustment Factors'' refers to adjustment factors that CARB developed for EMFAC2017 to account for the EPA's SAFE 1 final action that, among other things, withdrew the EPA's waiver of preemption for CARB's Advanced Clean Car (ACC) regulation as it pertained to CARB's ZEV sales mandate and GHG standards.[62] EMFAC2017 reflected emissions reductions that were estimated to be achieved through implementation of the ACC regulation, including the ZEV sales mandate. In response to the EPA's SAFE 1 action, CARB developed correction factors to be used to account for the foregone emissions reductions (EMFAC2017 Adjustment Factors).[63] In 2020, the EPA concurred on the use of CARB's EMFAC2017 Adjustment Factors for the purposes of SIP development in California,[64] and the 2020 Plan takes them into account as an adjustment to the EMFAC2017-derived motor vehicle emissions estimates included in the future year emissions inventories. For the 2020 Plan, the EMFAC2017 Adjustment Factor is generally 0.1 tpd or less for VOC and NO_X in all future years expected to be affected by the SAFE 1 action.

Table 1 of this document provides a summary of the baseline emissions inventories for the base year and future years in tpd (average summer day) for VOC and NO_X for the 2008 ozone NAAQS.[65] The inventories summarized in Table 1 distinguish between emissions generated within the nonattainment area and emissions that are generated offshore between three NM and 100 NM from the coastline of San Diego County. Table 1 also shows the adjustments made to account for ERCs and the EMFAC2017 Adjustment Factors. Table 2 of this document provides the same type of summary information as Table 1, but presents the base year and future years that are relevant for the 2015 ozone NAAQS.

Based on the emissions inventory for 2017, stationary, area, and mobile sources (on-road and off-road) contribute roughly equally to county-wide VOC emissions, whereas mobile sources (on-road and off-road) are the predominant sources of NO_X emissions. The inventory for 2017 also shows the magnitude of marine offshore (3 NM to 100 NM) emissions sources relative to those within the nonattainment area. A comparison of the base years with the future years shows the significant decrease that is expected to be achieved through CARB's regulations for new on-road and off-road mobile sources together with vehicle turnover (*i.e.,* the rate of replacement of older, more polluting models with new models manufactured to meet tighter emissions standards). For a more detailed discussion of the methodologies used to develop the inventories, see Attachment A of the 2020 Plan.

TABLE 1—SAN DIEGO COUNTY BASE YEAR AND FUTURE YEAR BASELINE EMISSIONS INVENTORIES FOR THE 2008 OZONE NAAQS

[Summer planning inventory, tpd]

	2011		2017		2020		2023		2026	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Stationary Sources	4.4	27.4	4.1	27.6	4.0	26.9	3.9	26.3	4.0	26.3
Area Sources	1.9	36.8	1.7	33.6	1.5	34.3	1.4	34.8	1.2	35.2
On-Road Mobile Sources	71.2	34.4	37.7	20.5	28.5	16.5	19.7	13.8	17.5	12.3
Off-Road Mobile Sources	33.2	38.0	33.5	31.1	32.6	28.5	31.2	26.7	30.3	25.2
Emission Reduction Credits adjustment	.....	.....	.....	.....	0.6	0.7	0.6	0.7	0.6	0.7
EMFAC2017 Adjustment Factor	.....	.....	.....	.....	.....	.....	<0.1	0.1	<0.1	<0.1
Total—San Diego County Nonattainment Area	110.7	136.6	77.0	112.9	67.1	107.0	56.8	102.4	53.6	99.7
Marine Emissions (3 NM–100 NM)	15.8	0.8	17.5	1.0	17.5	1.0	18.1	1.0	18.6	1.1

[60] 40 CFR part 51, Appendix S, section IV.C.5.

[61] 2020 Plan, section 2.1.3.3 and Attachment F.

[62] The EPA issued the ACC waiver on January 9, 2013 (78 FR 2112).

[63] Letter and enclosures dated March 5, 2020 from Steven S. Cliff, Ph.D., Deputy Executive Officer, CARB, to Elizabeth Adams, Director, Air and Radiation Division, EPA Region IX.

[64] Letter dated March 12, 2020, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Steven S. Cliff, Ph.D., Deputy Executive Officer, CARB.

[65] Tables 1 and 2 summarize anthropogenic emissions sources only, which is consistent with the EPA's ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (May 2017). Anthropogenic emissions sources are distinguishable from natural sources, which include biogenic, geogenic and wildfire emissions sources. Both anthropogenic and natural sources of emissions are, however, included in emissions inventories used for attainment demonstration modeling purposes.

TABLE 1—SAN DIEGO COUNTY BASE YEAR AND FUTURE YEAR BASELINE EMISSIONS INVENTORIES FOR THE 2008 OZONE NAAQS—Continued

[Summer planning inventory, tpd]

	2011		2017		2020		2023		2026	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Total—Nonattainment Area plus Marine Emissions (3 NM–100 NM)	126.5	137.5	94.5	113.8	84.7	108.0	74.8	103.4	72.2	100.8

Source: 2020 Plan, Attachment A, Tables A–1 and A–3. The sum of the emissions values may not equal the total due to rounding of the numbers.

TABLE 2—SAN DIEGO COUNTY BASE YEAR AND FUTURE YEAR BASELINE EMISSIONS INVENTORIES FOR THE 2015 OZONE NAAQS

[summer planning inventory, (tpd)]

	2017		2023		2026		2029		2032	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Stationary Sources	4.1	27.6	3.9	26.3	4.0	26.3	4.0	26.6	4.1	27.2
Area Sources	1.7	33.6	1.4	34.8	1.2	35.2	1.0	35.6	1.0	36.1
On-Road Mobile Sources	37.7	20.5	19.7	13.8	17.5	12.3	16.0	11.1	15.1	10.0
Off-Road Mobile Sources	33.5	31.1	31.2	26.7	30.3	25.2	29.7	24.2	28.9	23.2
Emission Reduction Credits adjustment	.....	.....	0.6	0.7	0.6	0.7	0.6	0.7	0.6	0.7
EMFAC2017 Adjustment Factor	.....	.....	<0.1	0.1	<0.1	<0.1	<0.1	<0.1	<0.1	0.1
Total—San Diego County Nonattainment Area	77.0	112.9	56.8	102.4	53.6	99.7	51.3	98.2	49.7	97.2
Marine Emissions (3 NM–100 NM)	17.5	1.0	18.1	1.0	18.6	1.1	19.0	1.0	19.3	1.1
Total—Nonattainment Area plus Marine Emissions (3 NM–100 NM)	94.5	113.8	74.8	103.4	72.2	100.8	70.0	99.3	69.0	98.3

Source: 2020 Plan, Attachment A, Tables A–1 and A–3. The sum of the emissions values may not equal the total due to rounding of the numbers.

3. The EPA's Review of the State's Submission

The 2020 Plan refers to year 2017 as the base year inventory for both the 2008 and 2015 ozone NAAQS but also includes an inventory of actual emissions in calendar year 2011, which we have reviewed for the purpose of evaluating compliance with the base year emissions inventory SIP requirement for the 2008 ozone NAAQS. Year 2017 is the appropriate base year for the emissions inventory SIP requirement for the 2015 ozone NAAQS.

We have reviewed the 2011 and 2017 base year emissions inventories in the 2020 Plan and the inventory methodologies used by the District and CARB for consistency with CAA requirements and EPA guidance. First, we find that the 2011 and 2017 inventories include estimates for VOC and NO_X for a typical ozone season weekday, and that CARB has provided adequate documentation explaining how the emissions are calculated. Second, we find that the 2011 and 2017 base year emissions inventories in the 2020 Plan reflect appropriate emissions models and methodologies, and, therefore, represent comprehensive, accurate, and current inventories of actual emissions during those years in the San Diego County area. Therefore, the EPA is proposing to approve the 2011 and 2017 emissions inventories in the 2020 Plan as meeting the requirements for base year inventories for 2008 and 2015 ozone set forth in CAA sections 172(c)(3) and 182(a)(1), and 40 CFR 51.1115 and 40 CFR 51.1315. In addition, although the requirement for a base year emissions inventory applies to the nonattainment area, we find that the District's estimates of marine emissions out to 100 NM (*i.e.,* beyond the nonattainment area boundary that extends three NM offshore) are reasonable and appropriate to include in the 2020 Plan given that such emissions must be accounted for in

the ozone attainment demonstrations for this nonattainment area.

With respect to the future year emissions baseline projections, we have reviewed the growth and control factors and find them acceptable and conclude that the future baseline emissions projections in the 2020 Plan reflect appropriate calculation methods and the latest planning assumptions. We have also reviewed the documentation concerning the growth increments for the military and for SDIA and the documentation for the ERCs and find that they are appropriately accounted for in the future year baseline emissions inventories or, in the case of the ERCs, as an off-model adjustment to the inventories.[66] With respect to the EMFAC2017 Adjustment Factors, we note that, since adoption of the 2020 Plan, the EPA has rescinded SAFE 1 (the withdrawal of the waiver of CARB's ZEV sales mandate and GHG standards),[67] which calls into question the use of the EMFAC2017 Adjustment Factor, as it may affect projections, particularly over the long term. However, as shown in Tables 1 and 2, the EMFAC2017 Adjustment Factor adjustment in the future year emissions inventories is insignificant (0.1 tpd or less for both VOC and NO_X), and thus the change in circumstances regarding the status of CARB's ZEV sales mandate does not affect the emissions projections used for the RFP and attainment demonstrations in the 2020 Plan.

Also, as a general matter, the EPA will approve a SIP revision that takes emissions reduction credit for a control measure only where the EPA has approved the measure as part of the SIP. Thus, to take credit for the emissions reductions from District rules for stationary sources and CARB rules for mobile sources, the related rules must be approved by the EPA into the SIP.[68] The EPA performed a review of District rules relied upon in developing the future baseline emissions inventories for the 2020 Plan.[69] Based on our review, we find that, with only one exception that does not implicate the RFP or attainment demonstrations of the 2020 Plan,[70] District rules relied upon in developing the future baseline emissions inventories are approved as part of the SIP. With respect to mobile sources, the EPA has taken action in recent years to approve CARB mobile source regulations into the California SIP.[71] We therefore find that the future year baseline projections in the 2020 Plan are properly supported by SIP-approved stationary and mobile source measures.

B. Reasonably Available Control Measures Demonstration and Control Strategy

1. Statutory and Regulatory Requirements

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through implementation of reasonably available control technology (RACT)), and to provide for attainment of the NAAQS. The 2008 Ozone SRR and the 2015 Ozone SRR require that, for each nonattainment area required to submit an attainment demonstration, the state concurrently submit a SIP revision demonstrating that it has adopted all RACM necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements.[72]

The EPA has previously provided guidance interpreting the RACM requirement, in the General Preamble for the Implementation of the Clean Air Act Amendments of 1990 (''General Preamble'') and in a memorandum entitled ''Guidance on the Reasonably Available Control Measure Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' [73] In short, to address the requirement to adopt all RACM, states should consider all potentially reasonable measures for source categories in the nonattainment area to determine whether they are reasonably available for implementation in that area and whether they would, if implemented individually or collectively, advance the area's attainment date by one year or more.[74] Any measures that are necessary to meet these requirements that are not already either federally promulgated, or part of the state's SIP, must be submitted in enforceable form as part of the state's attainment plan for the area.

For ozone nonattainment areas classified as Moderate or above, CAA section 182(b)(2) also requires implementation of RACT for all major sources of VOC and for each VOC source category for which the EPA has issued a control techniques guideline. CAA section 182(f) requires that RACT under section 182(b)(2) also apply to major stationary sources of NO_X. In Severe areas, a major source is a stationary source that emits or has the potential to emit at least 25 tpy of VOC or NO_X (CAA sections 182(d) and (f)). Under the 2008 Ozone SRR and the 2015 Ozone SRR, states were required to submit SIP revisions meeting the RACT requirements of CAA sections 182(b)(2) and 182(f) no later than 24 months after the effective date of designation for the 2008 ozone NAAQS and the 2015 ozone NAAQS, respectively. Implementation of the required RACT measures is required as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designation for the 2008 ozone NAAQS (see 40 CFR 51.1112(a)) and for the 2015 ozone NAAQS (see 40 CFR 51.1312(a)).[75]

2. Summary of the State's Submission

The 2020 Plan presents two RACM demonstrations. The first is included in Section 3.2.1 and addresses the 2008 ozone NAAQS. The second is presented in Section 4.2.1 for the 2015 ozone NAAQS. Within each Section, the 2020 Plan presents a RACM analysis organized by several emissions source groups. The District and CARB each undertook a process to identify and evaluate potential RACM that could contribute to expeditious attainment of the 2008 ozone NAAQS and the 2015

[66] See Section III.H of this document for our full evaluation, and proposed approval, of the growth increments for the military and SDIA.

[67] 87 FR 14332 (March 14, 2022).

[68] See generally *Committee for a Better Arvin* v. *EPA,* 786 F.3d 1169, 1175–1177 (9th Cir. 2015).

[69] The EPA's review of District rules relied upon in developing the future baseline emissions inventories is presented in Memorandum to Docket EPA–R09–OAR–2021–0135 from Jeff Wehling, Office of Regional Counsel, EPA Region IX, August 25, 2023.

[70] District Rule 61.4.1 should be submitted for approval as part of the SIP; however, the related emissions reductions are not of a magnitude as to implicate the RFP or attainment demonstrations.

[71] See 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

[72] 40 CFR 51.1112(c); 40 CFR 51.1312(c). The ''San Diego County area'' is shorthand for two nonattainment areas, one for each of two ozone NAAQS: the 2008 and the 2015 ozone NAAQS. The boundary is the same for both areas. Accordingly, the District submitted two attainment demonstrations in the 2020 Plan, one for each of the two standards.

[73] See General Preamble, 57 FR 13498, 13560 (April 16, 1992) and memorandum dated November 30, 1999, from John S. Seitz, Director, OAQPS, to Regional Air Directors, Subject: ''Guidance on the Reasonably Available Control Measure Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.''

[74] Id. See also 44 FR 20372 (April 4, 1979), and memorandum dated December 14, 2000, from John S. Seitz, Director, OAQPS, to Regional Air Directors, Subject: ''Additional Submission on RACM From States with Severe One-Hour Ozone Nonattainment Area SIPs.''

[75] California submitted the CAA section 182 RACT SIP for the San Diego County area for both the 2008 and 2015 ozone NAAQS, as a Severe nonattainment area with a 25 tpy major source threshold, on December 29, 2020. To date, the EPA has taken several actions on the San Diego County RACT SIP. We are not taking action on the RACT SIP in this rulemaking but will be completing action on it in a separate rulemaking(s).

ozone NAAQS in the San Diego County area. In addition, the District presented a ''RACM Cumulative Analysis'' for each standard as an overarching analysis of all source categories covered by CARB, the District and SANDAG.[76]

The 2020 Plan's RACM section for the 2008 ozone NAAQS begins by determining the magnitude of emissions reductions that would be needed to advance the area's attainment date by one year. As noted in Section I.B of this document, air pollutants transported from the South Coast region contribute to higher ozone levels in San Diego County under certain weather conditions. Accordingly, the RACM analysis in the 2020 Plan for the 2008 ozone NAAQS accounts for projected emissions from the San Diego County-South Coast transport couplet.[77]

Using emissions levels of the District's chosen 2026 attainment demonstration year as a basis for comparison, the District compared emissions levels from 2026 to what the levels are projected to be one year earlier, that is, 2025. The lower levels in 2026 were then subtracted from the higher levels of emissions in 2025, providing a difference in emissions levels that could then be compared against the 2020 Plan's RACM, that is, emissions reductions from reasonably available control measures, to determine if enough RACM reductions would be available to advance the 2026 attainment year to 2025. These levels are provided in Table 3 of this document.

TABLE 3—EMISSIONS REDUCTIONS NEEDED TO ADVANCE ATTAINMENT BY ONE YEAR, 2008 OZONE NAAQS

Emissions totals	Emissions (tpd)
2026 VOC Emissions Inventory	471.0
2025 VOC Emissions Inventory	473.8
VOC Emissions Reductions Needed in 2025 to Demonstrate Attainment	2.8
2026 NO_X Emissions Inventory	344.0
2025 NO_X Emissions Inventory	347.4
NO_X Emissions Reductions Needed in 2025 to Demonstrate Attainment	3.4

Source: 2020 Plan, Table 3–2 and Table A–2.

Because the District's attainment demonstration relies on specific levels of emissions of both VOC and NO_X, the reductions of emissions to advance that attainment date one year would require reductions in both VOC and NO_X at the levels shown in Table 3, that is, 2.8 tpd of VOC and 3.4 tpd of NO_X (''2008 ozone NAAQS RACM targets''). These amounts of reductions are then viewed as targets to see if they can be met or exceeded, and if so, then the attainment year for the 2008 ozone NAAQS would be moved up one year, to 2025. The 2020 Plan groups emissions sources into several large categories and assesses each one to identify potential RACM and to determine their potential collectively to provide emissions reductions equal to or greater than these targets.

a. 2008 Ozone NAAQS, District's RACM Analysis

The District provides a comprehensive evaluation of its 2008 ozone NAAQS RACM control strategy in Section 3.2.1 (''Reasonably Available Control Measures (RACM) Demonstration'') and Attachments A, D, G, H, I and J of the 2020 Plan. The evaluation includes: source descriptions; base year and projected baseline year emissions for the source category affected by the rule; discussion of the current requirements of the rule; and discussion of potential additional control measures, including, in many cases, a discussion of the technological and economic feasibility of the additional control measures. This includes a comparison of each District rule to analogous control measures adopted by other agencies.

The District's RACM demonstration for the 2008 ozone NAAQS begins with an analysis of stationary source controls, described in Section 3.2.1.2 (''Identifying Potential RACM for Stationary Sources'') of the 2020 Plan. This section of the 2020 Plan identifies potential control measures and analyzes these measures for emissions reduction opportunities, as well as economic and technological feasibility. The District's comprehensive demonstration considers potential control measures for stationary sources located throughout the area under its jurisdiction, that is, the entirety of San Diego County.

As a first step in the RACM analysis, the District prepared a detailed inventory of emissions sources of VOC and NO_X to identify source categories from which emissions reductions would effectively contribute to attainment. Details on the methodology and development of the emissions inventory are discussed in Section 3 and Attachment A of the 2020 Plan. Because the San Diego County area airshed is coupled with the South Coast Air Basin, which was used in the attainment demonstration modeling in the 2020 Plan, the District prepared a ''couplet'' emissions inventory that includes the two areas' combined emissions. A total of 75 source categories are included in the couplet emissions inventory: 45 for stationary and area sources and 30 for mobile sources.[78] Although the couplet emissions inventory includes South Coast and is therefore used in calculating the 2008 ozone NAAQS RACM targets (2.8 tpd VOC, 3.4 tpd NO_X), only sources of emissions within San Diego County were evaluated for their potential to either meet the 2008 ozone NAAQS RACM targets or to contribute to a collective reduction to meet those targets.

The District compared the 45 source categories to its rules for stationary and area sources. This analysis builds upon a foundation of District rules developed for earlier ozone plans and approved as part of the SIP. These rules establish emissions limits or other types of emissions controls for a wide range of sources, including VOC storage and handling, use of solvents, gasoline storage, gasoline transfer, dry cleaning with petroleum-based solvent, architectural coatings, surface coating operations, marine, wood products and aerospace coating operations, degreasing operations, cutback and emulsified asphalts, kelp processing and

[76] 2020 Plan, Sections 3.2.1 and 4.2.1.

[77] 2020 Plan, p. 38. In this context, ''transport couplet'' refers to a ''transport couple,'' a term that refers to two air basins, one of which has an impact on ambient air pollutant concentrations in the other air basin due to transport of pollutants and precursors by prevailing wind patterns. See ''Assessment of the Impacts of Transported Pollutants on Ozone Concentrations in California,'' CARB, March 2001.

[78] 2020 Plan, Table A–2.

biopolymer manufacturing operations, pharmaceutical and cosmetic manufacturing, and bakery ovens, among others. These rules have already provided significant reductions toward attainment of the 2008 ozone NAAQS by 2026.

The District excluded RACT rules from their stationary source RACM analysis because those rules are already required by federal law to be included in the SIP and are therefore not ''potential'' RACM control measures. Likewise, the District excluded stationary and area sources it regulates under the State's requirement to adopt ''all feasible measures,'' as these measures are also already implemented and incorporated into the area's attainment demonstration, and are therefore also not potential RACM. In addition, California state law requires ''Best Available Retrofit Control Technology'' or BARCT.[79] Because BARCT is an ongoing requirement for the District, BARCT rules are already implemented, would provide no new emissions reductions, and are therefore not potential RACM.

To demonstrate that the SDCAPCD considered all candidate measures that are available and technologically and economically feasible for stationary sources, the District conducted several steps in their analysis.

Step 1. Stakeholder Outreach

As part of a previous planning effort for the 2008 ozone NAAQS (the 2016 Moderate Plan),[80] and again as part of the SIP development effort for the (Severe) 2020 Plan, the District held multiple stakeholder outreach sessions. These sessions were intended to solicit stakeholder input on the full array of control measures that might be available for emissions sources in the area. Two public workshops were held in July 2020, in addition to other individual stakeholder meetings that were held for feedback on the entire draft 2020 Plan before and after each public workshop. These meetings built upon similar outreach the District conducted for prior federal and state air quality plans, including the 2016 Moderate Plan.

Step 2. Reasonably Available Control Technology Analysis

The District then considered Reasonably Available Control Technology (RACT) stationary source categories and found 11 existing District control measures that could be further controlled when compared to existing rules in other California air districts.[81] These 11 control measures apply to specific types of emissions sources: Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals, Transfer of Organic Compounds into Mobile Transport Tanks, Metal Parts and Product Coating Operations, Paper, Film, and Fabric Coatings, Aerospace Coating Operations, Graphic Arts Operations, Marine Coating Operations, Adhesive Materials Application Operations, Industrial and Commercial Boilers, Process Heaters and Steam Generators, Natural Gas-Fired Fan-Type Central Furnaces, and Stationary Gas Turbine Engines. The SDCAPCD compared its rules to the analogous rules for the same stationary source types in other California air districts, as candidate potential measures, and estimated the potential emissions reductions associated with each control measure if it were modified to reflect the other district's rule.

Step 3. EPA Technical Support Documents (TSDs)

The District researched TSDs from recent EPA rulemakings but did not find any potential additional stationary source controls beyond what its RACT analysis found.[82]

Step 4. Control Measures in Other Areas

The District reviewed stationary source control measures in other areas (*i.e.,* San Francisco Bay Area, Sacramento, San Joaquin Valley, Santa Barbara, South Coast, and Ventura County) to evaluate whether control technologies available and cost-effective within other areas would be available and cost-effective for use in the San Diego County area.[83] These include six control measures: Vacuum Truck Operations, Miscellaneous NO_X Sources, Equipment Leaks, Restaurant Cooking Operations, Food Products Manufacturing/Processing, and Metalworking Fluids and Direct-Contact Lubricants.

Step 5. EPA Menu of Control Measures

The Menu of Control Measures (MCM)[84] compiled by the EPA's Office of Air Quality Planning and Standards was created to provide information useful in the development of emissions reduction strategies and to identify and evaluate potential control measures. District staff reviewed the EPA's MCM for stationary source point and nonpoint sources of NO_X and VOC.

Based on its evaluation of all available stationary source control measures, the District concluded that its existing rules are generally as stringent as analogous rules in other districts, and where they were not, quantified the difference. In all, the District estimated that the total possible emissions reductions from further control of stationary sources subject to existing District rules and control of additional source categories would be approximately 0.4 tpd for VOC and 0.4 tpd for NO_X.[85]

b. 2008 Ozone NAAQS, RACM Analysis for Transportation Control Measures

Attachment H of the 2020 Plan contains the District's transportation control measure (TCM) RACM evaluation. The implemented TCMs in Attachment H are applicable in San Diego County. The District conducted the TCM RACM analysis on behalf of SANDAG and local jurisdictions in San Diego County, based on SANDAG's regional transportation plan (RTP), specifically, ''San Diego Forward: The 2019 Federal Regional Transportation Plan'' (''2019 RTP'').[86] The 2019 RTP was developed in consultation with federal, state and local transportation and air quality planning agencies and other stakeholders.

As described in Attachment H of the 2020 Plan, for the TCM RACM analysis, the District listed all TCMs that are included in CAA section 108(f) and their implementation status in San Diego County.[87] Of the 16 TCMs listed in CAA section 108(f), 13 are implemented in San Diego County. Of these implemented TCMs, five were included in the area's 1982 SIP.

Of the three TCMs that are not implemented in San Diego County, one (''Trip Reduction Ordinances'') was adopted in 1994, but was then rescinded in 1995 when federal and State laws were amended eliminating the mandate

[79] California Health & Safety Code sections 40918, 40919, 40920 and 40920.5.

[80] The State of California submitted the San Diego County area's 2016 Moderate ozone attainment plan to the EPA as a SIP revision on April 12, 2017. At the time, the area was a Moderate nonattainment area for the 2008 ozone NAAQS. The State withdrew the 2016 Moderate ozone attainment plan by letter dated December 16, 2021 following submittal of the 2020 Plan and the EPA's grant of the State's request to reclassify San Diego County to Severe for the 2008 ozone NAAQS.

[81] 2020 Plan, Table G–1, items G.1 to G.11.

[82] Email dated August 31, 2023, from Nick Cormier, SDCAPCD, to John J. Kelly, EPA.

[83] 2020 Plan, Table G–1, items G.12 to G.17.

[84] EPA, MCM, April 12, 2012.

[85] 2020 Plan, Attachment G, Table G–1.

[86] The 2019 RTP was adopted by SANDAG's Board on October 25, 2019. The 2019 RTP was approved by the Federal Highway Administration on November 15, 2019.

[87] 2020 Plan, Attachment H, ''Implementation Status of Transportation Control Measures,'' Table H–1.

for such measures.[88] Another (''Programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use'' or ''Peak Use Restriction Programs'') was found to be infeasible due to San Diego's low-density land use pattern and accompanying longer transit travel times. However, the District notes that SANDAG's Smart Growth Incentive Program provides funding to cities in San Diego County for infrastructure projects that enhance alternatives to driving in higher density areas.

Finally, one TCM, (''Programs to reduce motor vehicle emissions, consistent with Title II, which are caused by extreme cold start conditions'' or ''Cold Weather Start Programs'') was found to be not applicable to San Diego County due to its mild climate.

Based on its review of TCM projects implemented in San Diego County, the District determined that 13 of the 16 TCMs listed in CAA section 108(f) are being implemented in the county and are therefore ineligible for consideration as potential RACM. To determine if the three unimplemented TCMs could be required as RACM, the District estimated the maximum emissions reductions to be attributed to those TCMs.

The 2020 Plan estimates the maximum emissions reduction potential of the three unimplemented TCMs, citing a 1992 SANDAG study that estimated maximum emissions reductions for Trip Reduction Ordinances alone at less than 2 percent of on-road vehicle emissions.[89] The 1992 SANDAG study also found that potential reductions of all 15 of the other TCMs combined do not equal the Trip Reduction Ordinances TCM alone. Therefore, the 2020 Plan estimates the maximum potential emissions reduction potential of the three unimplemented TCMs as 2 percent of on-road vehicle emissions in a given year. For the modeled attainment year, 2026, projected on-road motor vehicle emissions in San Diego County are 12.2 tpd VOC and 17.5 tpd NO_X. Two percent of these projected emissions is 0.2 tpd VOC and 0.4 tpd NO_X.

c. 2008 Ozone NAAQS, CARB's RACM Analysis

CARB's RACM analysis is contained in Attachment I (''CARB Analyses of Potential Additional Mobile Source and Consumer Products Control Measures'') (''CARB RACM assessment'') of the 2020 Plan. The CARB RACM analysis provides a general description of CARB's existing mobile source programs. In its analysis, CARB includes mobile source control measures described in CARB's ''2016 State Strategy for the State Implementation Plan'' (2016 State Strategy).[90] A more detailed description of CARB's mobile source control program, including a comprehensive table listing on- and off-road mobile source regulatory actions taken by CARB from 1985 to 2019, is contained in Attachment D of the 2020 Plan (''CARB Control Measures, 1985 to 2019 (March 2020)''). CARB's RACM analysis and 2016 State Strategy collectively contain CARB's evaluation of mobile source and other statewide control measures that reduce emissions of NO_X and VOC in California, including San Diego County.

Source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and off-road engines and vehicles, motor vehicle fuels, and consumer products. CARB developed its 2016 State Strategy through a multi-step measure development process, including extensive public consultation, to develop and evaluate potential strategies for mobile source categories under CARB's regulatory authority that could contribute to expeditious attainment of the standard.[91] Through the process of developing the 2016 State Strategy, CARB identified certain defined measures as available to achieve additional VOC and NO_X emissions reductions from sources under CARB jurisdiction, including tighter requirements for new light- and medium-duty vehicles (referred to as the ''Advanced Clean Cars 2'' measure), a low-NO_X engine standard for vehicles with new heavy-duty engines, tighter emissions standards for small off-road engines, and more stringent requirements for consumer products, among others.[92] In adopting the 2016 State Strategy, CARB committed to bringing the defined measures to the CARB Board for action according to the specific schedule included as part of the strategy.[93]

Given the need for substantial emissions reductions from mobile and area sources to meet the NAAQS in California nonattainment areas, CARB established stringent control measures for on-road and off-road mobile sources and the fuels that power them. California has unique authority under CAA section 209 (subject to a waiver by the EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use off-road vehicles and engines.

CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include standards and other requirements to control emissions from in-use heavy-duty trucks and buses, gasoline and diesel fuel specifications, and many other types of mobile sources. Generally, these regulations have been submitted and approved as revisions to the California SIP.[94]

In their RACM analysis, CARB concludes that, in light of the extensive public process culminating in the 2016 State Strategy, with the current mobile source program and proposed measures included in the 2016 State Strategy, there are no additional mobile source RACM that would advance attainment of the 2008 ozone NAAQS in San Diego County. As a result, CARB concludes that California's mobile source programs fully meet the RACM requirement.[95]

Attachment I of the 2020 Plan describes CARB's current consumer products program and commitments in the 2016 State Strategy to achieve additional VOC reductions from consumer products.[96] As described in Attachment I, CARB's current consumer products program limits VOC emissions from 129 consumer product categories, including product categories such as

[88] As amended in 1990, CAA section 182(d)(1)(B) required states with Severe ozone nonattainment areas to adopt and submit SIP revisions requiring employers in such areas to implement programs to reduce work-related vehicle trips and miles traveled by employees, commonly referred to as ''trip reduction ordinances.'' Amendments to the CAA promulgated in 1995 revised CAA section 182(d)(1)(B) such that trip reduction ordinances are no longer required but may be adopted and submitted as SIP revisions at the state's discretion.

[89] ''Transportation Control Measures for the Air Quality Plan,'' SANDAG, 1992.

[90] CARB's 2016 State Strategy is available in the docket for this action and at *https://ww3.arb.ca.gov/planning/sip/2016sip/rev2016statesip.pdf*.

[91] 2020 Plan, p. I–2.

[92] 2016 State Strategy, Chapter 4 (''State SIP Measures'').

[93] CARB Resolution 17–7 (dated March 23, 2017), p. 7. CARB's resolution is available in the docket for this action and at *https://ww3.arb.ca.gov/planning/sip/2016sip/res17-7.pdf*.

[94] See, *e.g.,* the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel-powered trucks, at 77 FR 20308 (April 4, 2012), revisions to the California on-road reformulated gasoline and diesel fuel regulations at 75 FR 26653 (May 12, 2010), and revisions to the California motor vehicle inspection and maintenance program at 75 FR 38023 (July 1, 2010).

[95] 2020 Plan, p. I–6.

[96] Id., pp. I–6, I–7. CARB's consumer product measures are found in the California Code of Regulations, Title 17 (''Public Health''), Division 3 (''Air Resources''), Chapter 1 (''Air Resources Board''), Subchapter 8.5 (''Consumer Products'').

antiperspirants and deodorants and aerosol coatings.[97] The EPA has approved these measures into the California SIP as VOC emissions controls for a wide array of consumer products.[98]

d. 2008 Ozone NAAQS, the District's RACM Conclusion

In addition to evaluating a number of stationary, area, and mobile sources, as well as consumer products, in the separate groups as described in Section III.B.a. to Section III.B.c. in this document, the District presents a ''cumulative analysis'' to assess whether all potential RACM combined could result in advancement of the modeled 2026 attainment year to 2025.[99] Attachment J (''Calculation of Cumulative Potential Emission Reductions for Possible Reasonably Available Control Measures (RACM)'') of the 2020 Plan presents the cumulative potential RACM.[100] When taken together, all potential RACM reductions of VOC and NO_X that the District and CARB evaluated amount to approximately 0.7 tpd VOC and 0.7 tpd NO_X. These amounts fall far short of the 2008 ozone RACM targets of 2.8 tpd VOC and 3.4 tpd NO_X.[101] The District therefore concludes that, collectively, there are not enough potential RACM reductions to advance the attainment date.

e. 2015 Ozone NAAQS, RACM

In addition to addressing RACM for the 2008 ozone NAAQS, the 2020 Plan addresses RACM for the 2015 NAAQS. Section 4.2.1, ''Reasonably Available Control Measures (RACM) Demonstration,'' of the 2020 Plan contains the plan's RACM demonstration for the 2015 ozone NAAQS. The demonstration reflects much of what the 2020 Plan presents for demonstrating RACM for the 2008 ozone NAAQS and relies on the same attachments described in Section III.B.2.a.–d. of this document, that is, Attachments A (''Emissions Inventories and Documentation for Baseline, RFP, and Attainment Years''), D (''CARB Control Measures, 1985 to 2019''), G (''Analyses of Potential Additional Stationary Source Control Measures''), H (''Implementation Status of Transportation Control Measures''), I (''CARB Analyses of Potential Additional Mobile Source and Consumer Products Control Measures''), and J (''Calculation of Cumulative Potential Emission Reductions for Possible Reasonably Available Control Measures (RACM'').

In the 2020 Plan, the District compares 2032 projected emissions of the ozone precursors VOC and NO_X to those of the year prior, 2031, to determine the amount of emissions reductions that would be necessary in order to advance attainment by one year, to 2031, providing a 2015 ozone NAAQS RACM target. These levels are provided in Table 4 of this document. Unlike the emissions projections used to determine the magnitude of emissions reductions that would be necessary to advance attainment by one year for the RACM demonstration for the 2008 ozone NAAQS, the emissions projections used to determine the magnitude of emissions reductions necessary to advance attainment by one year for the RACM demonstration for the 2015 ozone NAAQS reflect emissions only for San Diego County (*i.e.,* including marine emissions 3 to 100 NM off the County coastline) rather than those for the South Coast-San Diego couplet. Using this more conservative approach, the District determined that VOC reductions of 0.1 tpd and NO_X reductions of 5.9 tpd would advance the attainment date for the 2015 ozone NAAQS by one year.[102]

TABLE 4—EMISSIONS REDUCTIONS NEEDED TO ADVANCE ATTAINMENT BY ONE YEAR, 2015 OZONE NAAQS

Emissions totals	Emissions (tpd)
2032 VOC Emissions Inventory	98.3
2031 VOC Emissions Inventory	98.4
VOC Emissions Reductions Needed in 2031 to Demonstrate Attainment	0.1
2032 NO_X Emissions Inventory	*63.3
2031 NO_X Emissions Inventory	69.2
NO_X Emissions Reductions Needed in 2025 to Demonstrate Attainment	5.9

Source: 2020 Plan, Table 4–2, ''Emissions Reductions Required to Advance Attainment By One Year, 2015 Ozone NAAQS (tons per day).''

*Adjusted for RACM. The unadjusted 2032 NO_X emissions inventory for San Diego County is 69.0 tpd. However, for attainment purposes, CARB has committed to obtain additional emissions reductions, in the amount of 4 tpd NO_X, as described in Section 4.3.5 of the 2020 Plan, and 1.7 tpd NO_X, as described in Section 4.3.4 of the 2020 Plan and in Attachment L, Section L.3.9. These commitments add up to 5.7 tpd NO_X, leaving a total emissions inventory of NO_X in 2032 of 63.3 tpd.

Once the District identifies 2015 ozone NAAQS RACM targets (0.1 tpd VOC, 5.9 tpd NO_X) in the 2020 Plan, the District assesses all potential RACM reductions to determine if, collectively, they could equal or exceed the targets. The District analyzes these potential RACM reductions in essentially the same steps as those taken to assess potential RACM for the 2008 ozone NAAQS, starting with stationary sources. As described in Section III.B.2.a. of this document, for the stationary source portion of the RACM demonstration for the 2008 ozone NAAQS, if all potential stationary source RACM were adopted in the area, stationary source emissions would be reduced an additional 0.41 tpd for VOC and 0.40 tpd for NO_X.[103] With respect to TCMs, the District estimates that if all unimplemented TCMs were to be adopted, transportation-related emissions sources in San Diego County would be reduced by 2 percent of the on-road motor vehicle emissions inventory for year 2032, or

[97] Id., p. D–34.

[98] The compilation of such measures that have been approved into the California SIP, including **Federal Register** citations, is available at: *https://www.epa.gov/sips-ca/epa-approved-regulations-california-sip*. EPA's most recent approval of amendments to California's consumer products regulations was in 2020. 85 FR 57703 (September 16, 2020).

[99] 2020 Plan, Section 3.2.1.6, ''RACM Cumulative Analysis,'' pp. 41–42.

[100] Id., Table J–1.

[101] Although the District based its RACM analysis for the 2008 ozone NAAQS on emissions reductions in the San Diego County-South Coast transport couplet, the District also analyzed emissions reductions from the District alone and also concluded that the attainment year could not be advanced one year with RACM emissions reductions. See email dated August 9, 2023, from Nick Cormier, SDCAPCD, to Jefferson Wehling, EPA.

[102] 2020 Plan, Table 4–2, p. 58.

[103] 2020 Plan, Attachment G, Table G–1, ''Stationary Source Categories for Which More Stringent Control Requirements Have Been Adopted by Another Air District,'' p. G–1.

approximately 0.2 tpd VOC and 0.3 tpd NO_X. For mobile sources and consumer products, the District concludes in the 2020 Plan that there are no potential RACM reductions available since all reasonable rules regulating both are currently being implemented.[104] In the 2020 Plan, the District bases this conclusion on analysis performed by CARB in Attachment I, which we describe in Section III.B.2.c. of this document regarding 2008 ozone NAAQS RACM.

The District included an additional step in its RACM analysis for the 2015 ozone NAAQS, which was not performed for the 2008 ozone NAAQS. The purpose was to determine whether further reductions would be possible, given that the area's 2032 modeled attainment year was further in the future for the 2015 ozone NAAQS than for the 2008 ozone NAAQS (2026). The District assessed the top ten non-mobile source categories of VOC and NO_X in San Diego County's emissions inventory.[105]

For each of these categories, the District estimates the percentage of the county's 2032 emissions of VOC and NO_X.[106] In each of two tables in the 2020 Plan (Table 4–3 and Table 4–4), the District provides, for each category: the numerical ranking from 1 to 10, with 1 representing the category with the highest emissions of all ten categories; the source category name; the emission inventory code or EIC; [107] 2017 base year and 2032 projected attainment year emissions of VOC or NO_X; the percentage of the County's projected 2032 total emissions of VOC or NO_X; a description of applicable regulations for the category; and whether there are potential RACM reductions, with an accompanying justification. The purpose of this last item, potential RACM and justification, is to determine first if there are RACM reductions available. A ''yes'' in this column indicates that the category has further reductions that are not being implemented. A ''no'' indicates that the category has no potential RACM reductions. Justifications for a ''no'' in this column vary. For example, the number 1 category of VOC non-mobile emissions is Consumer Products. These were discussed in both the 2008 and 2015 ozone NAAQS RACM sections in the 2020 Plan. In both instances, the conclusions, based on the analyses provided, are that there are no further CARB Consumer Products regulations to put in place.

In the 2020 Plan, text accompanying each of these two tables (that is, Tables 4–3 and 4–4) provides further assessment of each category. To continue the example for Consumer Products, the text explains that CARB has been developing regulations for this category for thirty years, developing regulations for over 100 consumer product categories. These regulations have been amended frequently, with increasing levels of stringency for VOC limits and reactivity limits.

In each of these two tables, the District demonstrates that the top ten categories of VOC and NO_X are addressed in the 2020 Plan. Where a potential for RACM exists, each category is addressed in the 2020 Plan in Sections 3.2.1.1 and 4.2.1.1 regarding RACM for the 2008 and 2015 ozone NAAQS, respectively, and in Attachment G.

f. 2015 Ozone NAAQS, the District's RACM Conclusion

After evaluating the emissions reduction potentials of stationary, area, and mobile sources, as well as consumer products, by themselves, the District presents a ''cumulative analysis'' to assess whether all potential RACM combined could result in advancement of the modeled 2032 attainment year to 2031.[108] Attachment J (''Calculation of Cumulative Potential Emission Reductions for Possible Reasonably Available Control Measures (RACM)'') of the 2020 Plan presents the cumulative potential RACM reductions in Table J–1, ''Calculation of Cumulative Potential Emission Reductions for Possible Reasonably Available Control Measures (RACM).'' When taken together, all potential RACM reductions of VOC and NO_X that the District and CARB evaluated amount to approximately 0.6 tpd VOC and 0.7 tpd NO_X. The potential RACM for combined VOC and NO_X, 1.3 tpd potential RACM reduction falls far short of the 2015 ozone RACM target (for combined VOC and NO_X), 6.0 tpd. The District therefore concludes that collectively, there is not enough potential RACM reductions to advance the attainment date for the 2015 ozone NAAQS.

3. The EPA's Review of the State's Submission

As described in Section III.B.2.a. of this document, the District already implements many rules to reduce VOC and NO_X emissions from stationary and area sources in the San Diego County area. For the 2020 Plan, the District evaluated a range of potentially available measures. We find that the process followed by the District in the 2020 Plan to identify additional stationary and area source RACM is generally consistent with the EPA's recommendations in the General Preamble, that the District's evaluation of potential measures is appropriate, and that the District has provided reasoned justifications for rejection of measures deemed not reasonably available.

With respect to mobile sources, CARB's current program addresses the full range of mobile sources in the San Diego County area through regulatory programs for both new and in-use vehicles. With respect to TCMs, we find that the District's process for identifying additional TCM RACM and its conclusion that the TCMs being implemented in the San Diego County area (*i.e.,* the TCMs listed in Attachment H of the 2020 Plan) represents all TCM RACM to be reasonably justified and supported. Further, we find that the District's cumulative analyses appropriately sum the various sources of potential RACM, and we agree with the District's conclusion that, taken together, all potential RACM would advance neither the 2026 modeled attainment year for the 2008 ozone NAAQS, nor the 2032 modeled attainment year for the 2015 ozone NAAQS. Based on our review of these RACM analyses and the District's and CARB's adopted rules, we propose to find that there are currently no additional RACM that would advance attainment of either the 2008 ozone NAAQS or the 2015 ozone NAAQS in the San Diego County area, and that the 2020 Plan provides for the implementation of all RACM as required by CAA section 172(c)(1), 40 CFR 51.1112(c) and 40 CFR 51.1312(c).

C. Attainment Demonstration

1. Statutory and Regulatory Requirements

An attainment demonstration consists of: (1) technical analyses, such as base year and future year modeling, to locate and identify sources of emissions that are contributing to violations of the ozone NAAQS within the nonattainment area (*i.e.,* analyses related to the emissions inventory for

[104] Id., Section 4.2.1.5, ''Identifying Potential RACM for Mobile Sources and Consumer Products,'' 61, and Attachment I, ''CARB Analyses of Potential Additional Mobile Source and Consumer Products Control Measures.''

[105] Id., Attachment A–1, Table A–1.

[106] Id., Table 4–3, ''Top Ten Categories of VOC Emissions in 2032 (Non-Mobile),'' and Table 4–4, ''Top Ten Categories of NO_X Emissions in 2032 (Non-Mobile).''

[107] Emissions inventory source categories are represented by a 14-digit emission inventory code (EIC) for area and mobile sources.

[108] 2020 Plan, Section 4.2.1.7, ''RACM Cumulative Analysis,'' p. 74.

the nonattainment area and the emissions reductions necessary to attain the standards); (2) a list of adopted measures (including RACT controls) with schedules for implementation and other means and techniques necessary and appropriate for demonstrating RFP and attainment as expeditiously as practicable but no later than the outside attainment date for the area's classification; (3) a RACM analysis; and (4) contingency measures required under sections 172(c)(9) and 182(c)(9) of the CAA that can be implemented without further action by the state or the EPA to cover emissions shortfalls in RFP and failures to attain.[109] In this section, we address the first two components of the attainment demonstration—the technical analyses and a list of adopted measures. We address the RACM component of the 2020 Plan attainment demonstration in Section III.B (Reasonably Available Control Measures Demonstration and Control Strategy) of this document and the contingency measures component of the attainment demonstration in Section III.F (Contingency Measures) of this document.

With respect to the technical analyses, section 182(c)(2)(A) of the CAA requires that a plan for an ozone nonattainment area classified Serious or above include a ''demonstration that the plan . . . will provide for attainment of the ozone [NAAQS] by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined . . . to be at least as effective.'' The attainment demonstration predicts future ambient concentrations for comparison to the NAAQS, making use of available information on measured concentrations, meteorology, and current and projected emissions inventories of ozone precursors, including the effect of control measures in the plan.

Areas classified Severe for the 2008 and 2015 ozone NAAQS must demonstrate attainment as expeditiously as practicable, but no later than 15 years after the effective date of designation to nonattainment. San Diego County was designated nonattainment for the 2008 ozone NAAQS effective July 20, 2012, and for the 2015 ozone NAAQS, the area was designated nonattainment effective August 3, 2018.[110] Accordingly the area must demonstrate attainment of the 2008 ozone NAAQS by July 20, 2027; for the 2015 ozone NAAQS, the area must demonstrate attainment by August 3, 2033.[111] An attainment demonstration must show attainment of the standards by the ozone season (for San Diego County, the ozone season is the entire calendar year) prior to the attainment date, so in practice, Severe nonattainment areas must demonstrate attainment in 2026 for the 2008 ozone NAAQS and in 2032 for the 2015 ozone NAAQS.

The EPA's recommended procedures for modeling ozone as part of an attainment demonstration are contained in ''Modeling Guidance for Demonstrating Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze'' (''Modeling Guidance'').[112] The Modeling Guidance includes recommendations for a modeling protocol, model input preparation, model performance evaluation, use of model output for the numerical NAAQS attainment test, and modeling documentation. Air quality modeling is performed using meteorology and emissions from a base year, and the predicted concentrations from this base case modeling are compared to air quality monitoring data from that year to evaluate model performance.

Once the model performance is determined to be acceptable, future year emissions are simulated with the model. The relative (or percent) change in modeled concentration due to future emissions reductions provides a relative response factor (RRF). Each monitoring site's RRF is applied to its monitored base year design value to provide the future design value for comparison to the NAAQS. The Modeling Guidance also recommends supplemental air quality analyses, which may be used as part of a weight of evidence analysis. A weight of evidence analysis corroborates the attainment demonstration by considering evidence other than the main air quality modeling attainment test, such as trends and additional monitoring and modeling analyses. Lastly, an unmonitored area analysis is used to predict areas of high ozone concentrations where air quality monitoring data is not available. This analysis utilizes interpolated ambient data with modeled outputs to determine gradient-adjusted spatial fields. Section 4.7 of the Modeling Guidance provides guidelines for estimating design values at unmonitored grid cells.

The Modeling Guidance does not require a particular year to be used as the base year for 8-hour ozone plans.[113] The Modeling Guidance states that the most recent year of the National Emissions Inventory [114] may be appropriate for use as the base year for modeling, but that other years may be more appropriate when considering meteorology, transport patterns, exceptional events, or other factors that may vary from year to year.[115] Therefore, the base year used for the attainment demonstration need not be the same year used to meet the requirements for emissions inventories and RFP.

With respect to the list of adopted measures, CAA section 172(c)(6) requires that nonattainment area plans include enforceable emissions limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for timely attainment of the NAAQS.[116] Under the 2008 Ozone SRR and the 2015 Ozone SRR, all control measures needed for attainment must be implemented no later than the beginning of the attainment year ozone season.[117] The attainment year ozone season is defined as the ozone season immediately preceding a nonattainment area's maximum attainment date.[118]

2. Summary of the State's Submission

a. Photochemical Modeling

The 2020 San Diego County Ozone SIP includes photochemical modeling for the 2008 and 2015 ozone NAAQS. CARB performed the air quality modeling for the 2020 Plan. The modeling relies on a 2017 base year and demonstrates attainment of the 2008 ozone NAAQS in 2026 and attainment of the 2015 ozone NAAQS in 2032.

[109] 78 FR 34178, 34184 (June 6, 2013) (proposed rule for implementing the 2008 ozone NAAQS), codified at 40 CFR 51.1108. For the 2015 ozone NAAQS, the EPA finalized modeling requirements at 40 CFR 51.1308.

[110] 77 FR 30087 (May 21, 2012) and 83 FR 25776 (June 4, 2018), respectively.

[111] 80 FR 12264 and 83 FR 62998, respectively.

[112] Modeling Guidance, EPA 454/R–18–009, November 2018. Additional EPA modeling guidance can be found in 40 CFR 51 Appendix W, ''Guideline on Air Quality Models,'' 82 FR 5182 (January 17, 2017). These documents are available in the docket for this action and at *https://www.epa.gov/sites/default/files/2020-10/documents/o3-pm-rh-modeling_guidance-2018.pdf* and *https://www.epa.gov/scram/clean-air-act-permit-modeling-guidance,* respectively.

[113] Modeling Guidance, Section 2.7.1, p. 35.

[114] The National Emissions Inventory (NEI) is an electronic database of criteria pollutant and precursor emissions data for the United States. State, local and tribal agencies contribute to the NEI every three years (2011, 2014, 2017, 2020, etc.). For more information about the NEI, see: *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei.*

[115] Modeling Guidance at Section 2.7.1, p 35.

[116] See also CAA section 110(a)(2)(A).

[117] 40 CFR 51.1108(d) and 40 CFR 51.1308(d), respectively.

[118] 40 CFR 51.1100(h) for the 2008 ozone NAAQS and 40 CFR 51.1300(g), for the 2015 ozone NAAQS.

As a general matter, the modeling for the 2020 Plan represents the most up-to-date photochemical modeling performed for the area, accounting for improved chemical gaseous and particulate mechanisms, improved computational resources and post-processing utilities, enhanced spatial and temporal allocations of the emissions inventory, and CARB's latest attainment demonstration methodology. Air quality modeling included in the 2020 Plan is described briefly in the plan's Sections 3.3 and 4.3 (for 2008 and 2015 ozone NAAQS, respectively) and in detail in the plan's Attachment K (''Attachment K'' or ''Modeling Protocol'').[119] The 2020 Plan discusses its modeling emissions inventory in Attachment L, ''Modeling Emissions Inventory,'' while Attachment M, ''Weight of Evidence Demonstration for San Diego County,'' supplements the plan's modeling results with a weight of evidence analysis.

Attachment K of the 2020 Plan provides a description of model input preparation procedures, various model configuration options, and model performance statistics. The Modeling Protocol contains all the elements recommended in the Modeling Guidance, including: selection of model, time period to model, modeling domain, and model boundary conditions and initialization procedures; a discussion of emissions inventory development and other model input preparation procedures; model performance evaluation procedures; selection of days; and other details for calculating Relative Response Factors (RRFs). Attachment K also provides the coordinates of the modeling domain.

Attachment L of the 2020 Plan thoroughly describes the development of the modeling emissions inventory, including its chemical speciation, its spatial and temporal allocation, its temperature dependence, and quality assurance procedures.

The CARB Staff Report for the 2020 Plan provides additional information about CAA requirements that apply to the San Diego County area, including an attainment demonstration, emissions reductions commitments by CARB and the District and the source categories from which those reductions are expected to come.[120]

The modeling analysis uses version 5.2.1 of the Community Multiscale Air Quality (CMAQ) photochemical model, developed by the EPA. To prepare meteorological input for CMAQ, the Weather Research and Forecasting model version 3.9.1.1 (WRF) from the National Center for Atmospheric Research was used. CMAQ and WRF are both recognized in the Modeling Guidance as technically sound, state-of-the-art models. The areal extent and the horizontal and vertical resolution used in these models are adequate for modeling San Diego County ozone.

The WRF meteorological model results and performance statistics are described in Section K.3.1 (''Meteorological Model Evaluation'') of Attachment K. The District and CARB evaluated the performance of the WRF model through a series of simulations and concluded that the daily WRF simulation for 2017 performed comparably to recent WRF modeling studies of ozone formation in California. The District's conclusions are supported by hourly time series, with performance statistics provided in Table K–7 for wind speed, temperature and relative humidity.

Ozone model performance and related statistics are described in the 2020 Plan Attachment K, Section K.3.2 (''Air Quality Model Evaluation''), which includes tables of statistics recommended in the Modeling Guidance for ozone for San Diego County. Model performance metrics provided in the 2020 Plan include mean bias, mean error, mean fractional bias, mean fractional error, normalized mean bias, normalized mean error, root mean square error, and correlation coefficient. In addition, plots were provided in evaluating the modeling: time-series plots comparing the predictions and observations, scatter plots for comparing the magnitude of the simulated and observed mixing ratios, box plots to summarize the time series data across different regions and averaging times, as well as frequency distributions.

After model performance for the 2017 base case was accepted, the model was applied to develop RRFs for the attainment demonstration.[121] This entailed running the model with the same meteorological inputs as before, but with adjusted emissions inventories to reflect the expected changes between 2017 and the attainment years 2026 and 2032. The base year, or ''reference year'' as referred to by the District and CARB, modeling inventory was the same as the inventory for the modeling base case, except for the exclusion of some emissions events that are random or cannot be projected to the future.[122] The 2026 and 2032 inventories project the base year into the future by including the effect of economic growth and emissions control measures. To develop the RRFs for the 8-hour ozone NAAQS, only the top 10 modeled days were used, consistent with the Modeling Guidance.[123]

The Modeling Guidance addresses attainment demonstrations with ozone NAAQS based on 8-hour averages, and for the 2008 and 2015 ozone NAAQS, the 2020 Plan carried out the attainment test procedure consistent with the Modeling Guidance. The RRFs were calculated as the ratio of future to base year concentrations. The resulting RRFs were then applied to two sets of reference design values. One set is for the period 2016–2018. Another set of design values was more current at the time of the state and District's analysis, the period 2017–2019. However, because that set of design values included data for 2019 that was not finalized at the time of the analysis, the earlier 2016–2018 set was used as an additional reference. The RRFs were applied to five monitoring sites in the San Diego County area to obtain future year 2026 and 2032 design values, summarized in Table K–13 and Table K–14 of the 2020 Plan, respectively. The modeled 2026 and 2032 ozone design values at the Alpine monitoring site (the highest of the county's monitors) are 0.074 ppm and 0.070 ppm, respectively; these values demonstrate attainment of the 2008 and the 2015 ozone NAAQS.

The 2020 Plan modeling demonstration includes a weight of evidence demonstration.[124] The weight of evidence demonstration in Attachment M of the 2020 Plan includes ambient ozone data and trends, precursor emissions trends and

[119] 2020 Plan, Attachment K, ''Modeling Protocol & Attainment Demonstration for the 2020 San Diego Ozone SIP'' (March 2020).

[120] Emissions reduction commitments are described in the 2020 Plan (Sections 4.3.4 and 4.3.5; Attachment L, Section 3.9; and Table 4–9), the CARB Staff Report, and the District's and CARB's Board resolutions.

[121] Modeling TSD, p. 26. Section 4.0 of the Modeling Guidance focuses on establishing guidelines for analyzing simulated emissions reductions for a future year with the goal of meeting the NAAQS. The Modeling Guidance recommends examining relative changes in design values through Relative Response Factors instead of absolute values to reduce the effect of model biases. In short, the RRF is a relative change in concentration with respect to a change in emissions between a base and future year, *i.e.,* the ratio of future year and base year modeled concentrations, and is multiplied by the base design value obtained from monitoring data at a particular site to obtain a future year design value at that site.

[122] The terms base year and reference year can be used interchangeably. To use consistent EPA terminology, the terms ''base year'' and ''base case'' are used in this document and correspond to the District's and CARB's use of the terms ''reference year'' and ''base year,'' respectively.

[123] See Modeling Guidance at section 4.2.1.

[124] 2020 Plan, Attachment M, ''Weight of Evidence Demonstration for San Diego County.''

reductions, to complement the regional photochemical modeling analyses. The CARB Staff Report for the 2020 Plan concludes that the weight of evidence analysis supports the conclusions of the photochemical modeling.[125]

b. Control Strategy for the 2008 Ozone NAAQS and for the 2015 Ozone NAAQS

Continued air quality improvement in the San Diego County area is expected during the 2017 through 2032 timeframe because of the continued implementation of adopted District and CARB control measures and ongoing fleet turnover that replaces older more polluting mobile sources with newer, cleaner models and the downward emissions trends in the upwind South Coast Air Basin.

The control strategy for the San Diego County area for the 2008 ozone NAAQS relies on emissions reductions from baseline (already-implemented) measures. The baseline control measures include the District's stationary source rules and CARB's mobile source and consumer products regulations adopted at the time of development of the 2020 Plan.

The control strategy for the San Diego County area for the 2015 ozone NAAQS also relies on emissions reductions from baseline (already-implemented) measures. However, unlike the 2008 ozone NAAQS attainment demonstration, the 2020 Plan concludes that baseline measures will not by themselves provide sufficient emissions reductions by 2032 to demonstrate attainment of the 2015 ozone NAAQS. Thus, the control strategy for the attainment demonstration for the 2015 ozone NAAQS includes commitments by CARB and the District to adopt and submit new control measures to achieve additional emissions reductions that the modeling indicates are necessary to attain the 2015 ozone NAAQS in the San Diego County area by the attainment year (2032).

To provide for attainment of the 2015 ozone NAAQS by the attainment year (2032), CARB and the District commit in the 2020 Plan to reduce NO_X emissions by 4.0 tpd [126] and by 1.7 tpd,[127] respectively. CARB expects to adopt and submit certain mobile source control measures developed pursuant to CARB's 2016 State Strategy to fulfill the 4.0 tpd NO_X aggregate emissions reduction commitment for San Diego County by 2032. The specific control measures that CARB expects to adopt and submit are listed in Table 5 of this document. The District expects to adopt and submit certain stationary source control measures to fulfill the 1.7 tpd NO_X aggregate emissions reduction commitment by 2032, as listed in Table 6 of this document.

TABLE 5—SAN DIEGO COUNTY EXPECTED NO_X EMISSIONS REDUCTIONS FROM CARB 2016 STATE SIP STRATEGY MEASURES

2016 State strategy measure(s)	Control measure/regulation	2032 (tpd)
On-Road Heavy-Duty Vehicles: Low-NO_X Engine Standard—California Action and Lower In-Use Emission Performance Level.	Heavy-Duty Engine and Vehicle Omnibus Regulation ("Low NO_X Omnibus Regulation").	1.9
On-Road Heavy-Duty Vehicles: Last Mile Delivery	Advanced Clean Trucks Regulation	0.4
On-Road Heavy-Duty Vehicles: Lower In-Use Emission Performance Level	Heavy Duty Vehicle Inspection and Maintenance Regulation.	1.7
Total Aggregate CARB Commitment		4.0

Sources: 2016 State Strategy, Chapters 3 and 4; 2020 Plan, Table 4–9.

TABLE 6—SAN DIEGO COUNTY EXPECTED NO_X EMISSIONS REDUCTIONS FROM SDCAPCD CONTROL MEASURES

Source type	Control measure/rule	2032 (tpd)
Stationary Reciprocating Internal Combustion Engines	Amended District Rule 69.4.1	0.8
Small and Medium Boilers, Process Heaters, Steam Generators and Large Water Heaters.	New or Amended District Rules 69.2.1 and 69.2.2	0.9
Total Aggregate SDCAPCD Commitment		1.7

Source: 2020 Plan, Section 4.3.4.

c. Attainment Demonstration

Table 7 of this document summarizes the attainment demonstration for the 2008 ozone NAAQS by listing the 2011 base year emissions level, the attainment year (2026) baseline emissions level, the modeled attainment (2026) emissions level, and the reductions that the District and CARB estimate will be achieved through implementation of baseline (*i.e.,* adopted) measures taking into account area-wide growth, the growth increments for the military and SDIA, the District's ERC set-aside and the EMFAC2017 Adjustment Factors adjustment. The District and CARB have not made any emissions reductions commitments as part of the control strategy for attainment of the 2008 ozone NAAQS in San Diego County. The control strategy relies only on baseline measures. As shown in Table 7, baseline measures are expected to reduce base year (2011) emissions of NO_X by 43 percent and VOC emissions by 27 percent by the 2026 attainment year, notwithstanding area-wide growth, the growth increments for the military and SDIA, the District's ERC set-aside and the EMFAC2017 Adjustment Factors adjustment, and to attain the 2008 ozone NAAQS in San Diego County by that year.

[125] CARB Staff Report, 10.

[126] CARB Board Resolution 20–29, 6; 2020 Plan, section 4.3.5.

[127] 2020 Plan, section 4.3.4.

TABLE 7—SUMMARY OF SAN DIEGO COUNTY 2008 OZONE NAAQS ATTAINMENT DEMONSTRATION

[Summer planning inventory, tpd]

Row		NO_X	VOC
A	2011 Base Year Emissions Level[a]	126.5	137.5
B	2026 Attainment Year Baseline Emissions Level[b]	72.2	100.8
C	2026 Modeled Attainment Emissions Level[c]	72.2	100.8
D	Total Reductions Needed from 2011 Levels to Demonstrate Attainment (A − C)	54.3	36.7
E	Reductions from Baseline (*i.e.,* adopted) Measures, net of growth, growth increment for military and SDIA, ERC set-aside and EMFAC2017 Adjustment Factors adjustment (A − B).	54.3	36.7
F	Reductions from District's Aggregate Emissions Reduction Commitment from 2020 Plan	0	0
G	Reductions from CARB's Aggregate Emissions Reduction Commitment from 2016 State Strategy	0	0
H	Total Reductions from District's and CARB's Commitments	0	0
I	Total Reductions from Baseline Measures and the District's and CARB's Commitments (E + H)	54.3	36.7
J	2026 Emissions with Reductions from Control Strategy (A − I)	72.2	100.8
	Attainment demonstrated?	Yes	Yes

[a] See Table 1 of this document. Includes emissions out to 100 NM from the coast.
[b] See Table 1 of this document. Includes emissions out to 100 NM from the coast. Year 2026 baseline emissions reflect area-wide growth, the growth increments for the military and SDIA, the District's ERC set-aside and the EMFAC2017 Adjustment Factors adjustment.
[c] 2020 Plan, Section 3.3.4.

Table 8 of this document summarizes the attainment demonstration for the 2015 ozone NAAQS by listing the 2017 base year emissions level, the attainment year (2032) baseline emissions level, the modeled attainment (2032) emissions level, and the reductions that the District and CARB estimate will be achieved through implementation of baseline (*i.e.,* adopted) measures taking into account area-wide growth, the growth increments for the military and SDIA, the District's ERC set-aside and the EMFAC2017 Adjustment Factors adjustment. Table 8 also shows the aggregate emissions reductions commitments (for year 2032) made by the District and CARB as part of the control strategy for attainment of the 2015 ozone NAAQS in San Diego County. As shown in Table 8, baseline measures are expected to reduce base year (2017) emissions of NO_X by 27 percent and VOC emissions by 14 percent by the 2032 attainment year, notwithstanding area-wide growth, the growth increments for the military and SDIA, the District's ERC set-aside and the EMFAC2017 Adjustment Factors adjustment. The District's and CARB's commitments would further reduce emissions of NO_X by 2032 by an additional 5.7 tpd. Together, the baseline emissions reductions and the NO_X emissions reduction commitments would provide for attainment of the 2015 ozone NAAQS by the attainment year (2032).

TABLE 8—SUMMARY OF SAN DIEGO COUNTY 2015 OZONE NAAQS ATTAINMENT DEMONSTRATION

[Summer planning inventory, tpd]

Row		NO_X	VOC
A	2017 Base Year Emissions Level[a]	94.5	113.8
B	2032 Attainment Year Baseline Emissions Level[b]	69.0	98.3
C	2032 Modeled Attainment Emissions Level[c]	63.3	98.3
D	Total Reductions Needed from 2017 Levels to Demonstrate Attainment (A − C)	31.0	15.5
E	Reductions from Baseline (*i.e.,* adopted) Measures, net of growth, growth increment for military and SDIA, ERC set-aside and EMFAC2017 Adjustment Factors adjustment (A − B).	25.5	15.5
F	Reductions from District's Aggregate Emissions Reduction Commitment from 2020 Plan	1.7	0
G	Reductions from CARB's Aggregate Emissions Reduction Commitment from 2016 State Strategy	4.0	0
H	Total Reductions from District's and CARB's Commitments	5.7	0
I	Total Reductions from Baseline Measures and the District's and CARB's Commitments (E + H)	31.2	15.5
J	2032 Emissions with Reductions from Control Strategy (A − I)	63.3	98.3
	Attainment demonstrated?	Yes	Yes

[a] See Table 1 of this document. Includes emissions out to 100 NM from the coast.
[b] See Table 1 of this document. Includes emissions out to 100 NM from the coast. Year 2032 baseline emissions reflect area-wide growth, the growth increments for the military and SDIA, the District's ERC set-aside and the EMFAC2017 Adjustment Factors adjustment.
[c] 2020 Plan, Section 4.3.4.

3. The EPA's Review of the State's Submission

a. Photochemical Modeling

As discussed in Section III.A of this document, we are proposing to approve the base year emissions inventory and to find that the future year emissions projections in the 2020 San Diego County Ozone SIP reflect appropriate calculation methods and that the latest planning assumptions are properly supported by SIP-approved stationary and mobile source control measures. Here, we address our findings for the modeling submitted with the 2020 Plan. Because of the importance of ozone transport from the South Coast to attainment in San Diego County, and the close interactions of the modeling for each area, we have considered the influence of South Coast on the modeling for San Diego County. Similar and additional discussion for the South Coast can be found in our June 17, 2019 proposed action on the 2016 South Coast Ozone SIP.[128]

Based on our review of Attachment K[129] of the 2020 Plan, the EPA finds that the photochemical modeling is

[128] 84 FR 28132.

[129] Attachment K, ''Modeling Protocol & Attainment Demonstration for the 2020 San Diego Ozone SIP,'' 2020 Plan.

adequate for purposes of supporting the attainment demonstration.[130] First, we note the extensive discussion of modeling procedures, tests, and performance analyses in the Methodology section of Attachment K and the good model performance. Second, we find the WRF meteorological model results and performance statistics, including hourly time series graphs of wind speed, direction, and temperature for San Diego County to be satisfactory and consistent with our Modeling Guidance.[131] Performance for wind speed, temperature, and relative humidity was evaluated from May to September 2017.[132] Geographically, winds are predicted most accurately along the coast. Accurate wind predictions in this region are important in simulating chemical transport in the San Diego Air Basin. Overall, the WRF simulation provided reasonable meteorological fields comparable to other WRF modeling studies and is sufficient for the attainment demonstration.

The model performance statistics for ozone are described in Attachment K Section K.3.2 and are based on the statistical evaluation recommended in the Modeling Guidance. Model performance was provided for 8-hour daily maximum ozone for San Diego County, separately for the Alpine site and the coastal sites. A geographical and temporal bias is shown in the time series, which sufficiently captures the variability in the maximum daily eight-hour average ozone concentration at the Alpine site, but overpredicts this concentration from mid-June to mid-July at the coastal sites. Through a series of sensitivity tests and consideration of other meteorological phenomena, the observed ozone concentrations during the overprediction period are likely attributed to numerous meteorological factors affecting ozone transport (see, ''Technical Support Document, Review of Attainment Modeling in the 2020 San Diego Ozone Plan (July 2022)'' (''Modeling TSD'')).[133]

The 2020 Plan presents scatter plots of monitored and modeled ozone concentrations that also suggest that the Alpine site has the best correspondence between modeled and observed concentrations. This correspondence reflects the model's capability of reliably predicting the high concentrations that result in exceedances frequently observed at the Alpine site, which are important for the top ten days that form the basis for the RRF calculation. However, the overprediction of absolute ozone concentrations does not mean that future concentrations will be overestimated. In addition, the weight of evidence analysis presented in Attachment M of the 2020 Plan provides additional information with respect to the sensitivity to emissions changes and further supports the model performance. We are proposing to find the air quality modeling adequate to support the attainment demonstrations for the 2008 and 2015 ozone NAAQS, based on reasonable meteorological and ozone modeling performance, and supported by the weight of evidence analyses. For additional information regarding the EPA's analysis, please see the Modeling TSD for this action.

b. Control Strategy

As part of our evaluation of attainment demonstrations, we must find that the emissions reductions that are relied on for attainment are creditable and are sufficient to provide for attainment. As shown in Table 7 of this document, the 2020 Plan relies on baseline measures to achieve all the emissions reductions needed to attain the 2008 ozone NAAQS by 2026. The baseline measures are approved into the SIP (with only minor exceptions) and, as such, the emissions reductions are fully creditable.

With respect to the attainment demonstration for the 2015 ozone NAAQS, we must also find that the emissions reductions that are relied on for attainment are creditable and are sufficient to provide for attainment. As shown in Table 8, the 2020 Plan relies on baseline measures to achieve a significant portion of the emissions reductions needed to attain the 2015 ozone NAAQS by 2032. The balance of the reductions needed for attainment is in the form of enforceable commitments to achieve aggregate tonnage reductions of NO_X through adoption and implementation of more stringent emissions limitations contained in certain new or amended rules and regulations.

Table 9 of this document provides a summary of the status of the commitments made by the District and CARB in connection with the 2020 Plan. As shown in Table 9, the District and CARB have adopted all six of the rules or regulations that the agencies are relying on to meet their aggregate emissions reduction commitments. Four of the six rules or regulations have been submitted to the EPA for action as revisions to the California SIP. The rules or regulations are at various phases of implementation and at various stages of the process from adoption to approval by the EPA as part of the SIP. The commitments will be fulfilled once the EPA approves the rules or regulations as part of the SIP, assuming that the rules or regulations, as approved, provide NO_X emissions reductions equal to or greater than the corresponding aggregate emissions reduction commitments by year 2032 in the San Diego County area.

TABLE 9—STATUS OF DISTRICT AND CARB AGGREGATE EMISSIONS REDUCTION COMMITMENTS FOR 2020 PLAN

Rule	Adoption date and district resolution of adoption	Submission date to the EPA as SIP revision	Most recent EPA SIP action
District Commitment			
Amendments to Rule 69.2.1 (Small Boilers, Process Heaters, and Steam Generators and Large Water Heaters.	July 8, 2020 (Resolution 20–118).	September 21, 2020	Proposed rule published at 88 FR 48150 (July 26, 2023).
New Rule 69.2.2 (Medium Boilers, Process Heaters, and Steam Generators).	September 9, 2021 (Resolution 21–005).	March 9, 2022	Final rule published at 88 FR 57361 (August 23, 2023).
Amendments to Rule 69.4.1 (Stationary Reciprocating Internal Combustion Engines).	July 8, 2020 (Resolution 20–120).	September 21, 2020	No EPA action to date.

Regulations	Adoption date and CARB resolution of adoption	CAA Section 209 preemption waiver status	Submission date to the EPA as SIP revision	Most recent EPA SIP action
CARB Commitment:				

[130] The EPA's review of the modeling and attainment demonstration is discussed in greater detail in the Modeling TSD for this action.

[131] Modeling Guidance, 30.

[132] Temperature, water vapor mixing ratio, and wind speed were evaluated in terms of normalized gross bias and normalized gross error.

[133] These factors are discussed in greater detail in Section 3.1.2 of the EPA's Modeling TSD, included in the docket to this action.

Regulations	Adoption date and CARB resolution of adoption	CAA Section 209 preemption waiver status	Submission date to the EPA as SIP revision	Most recent EPA SIP action
Low-NO_X Omnibus Regulation[a]	August 27, 2020 (Resolution 20–23).	Notice of Opportunity for Public Hearing and Comment published at 87 FR 35765 (June 13, 2022).	Not yet submitted	
Advanced Clean Trucks Regulation	June 25, 2020 (Resolution 20–19).	Notice of Decision published at 88 FR 20688 (April 6, 2023).	Not yet submitted	
Heavy-Duty Vehicle Inspection and Maintenance Regulation.	December 9, 2021 (Resolution 21–29).	Not preempted	December 7, 2022	No EPA action to date.

[a] In July 2023, CARB proposed amendments to the Low-NO_X Omnibus Regulation to provide additional flexibility for manufacturers of model year (MY) 2024–2026 heavy-duty engines.

The commitments made by the District and CARB through adoption of the 2020 Plan and 2016 State Strategy are similar to the enforceable commitments that the EPA has approved as part of attainment demonstrations in previous California air quality plans and that have withstood legal challenge.[134] The EPA has previously accepted enforceable commitments in lieu of adopted control measures in attainment demonstrations when the circumstances warrant them and when the commitments meet specific criteria. We believe that, with respect to the 2015 ozone NAAQS, circumstances warrant the consideration of enforceable commitments as part of the attainment demonstration for San Diego County. First, as shown in Table 8, a substantial portion of the emissions reductions needed to demonstrate attainment of the 2015 ozone NAAQS in the San Diego County area by 2032 will come from measures adopted prior to adoption and submittal of the 2020 Plan. As a result of these State and District efforts, most emissions sources in the San Diego County area are currently subject to stringent emissions limitations and other requirements, leaving few opportunities to further reduce emissions. In the 2020 Plan and 2016 State Strategy, the District and CARB identified potential control measures that could provide many of the additional emissions reductions needed for attainment. These are described in Section III.C.2.b of this document. However, the timeline needed to develop, adopt, and implement these measures went beyond the required submittal date for the attainment demonstration for the San Diego County area for the 2015 ozone NAAQS. These circumstances warrant the District's and CARB's reliance on enforceable commitments as part of the attainment demonstrations for the 2015 ozone NAAQS.

Given the State's demonstrated need for reliance on enforceable commitments, we now consider the three factors the EPA uses to determine whether the use of enforceable commitments in lieu of adopted measures to meet CAA planning requirements is approvable: (i) does the commitment address a limited portion of the statutorily-required program?; (ii) is the state capable of fulfilling its commitment?; and (iii) is the commitment for a reasonable and appropriate period of time?

i. Commitments Are a Limited Portion of Required Reductions

For the first factor, we look to see if the commitment addresses a limited portion of a statutory requirement and review the magnitude of emissions reductions needed to demonstrate attainment in a nonattainment area. Table 8 of this document shows emissions reductions needed to demonstrate attainment of the 2015 ozone NAAQS in San Diego County by 2032 and the aggregate emissions reductions commitments by the District and CARB. Historically, the EPA has approved SIPs with enforceable commitments in the vicinity of 10 percent of the total needed reductions for attainment.[135] Based on the values in Table 8 of this document, we note that the sum of the aggregate emission reductions commitments (5.7 tpd NO_X) represents approximately 18 percent of the total emissions reductions (31.0 tpd NO_X) needed for attainment (relative to the 2017 base year). (The attainment demonstration for the 2015 ozone NAAQS for the San Diego County area does not rely on any commitments with respect to VOC emissions reductions.) While the value of 18 percent is higher than the EPA has generally found acceptable in the past, we note that all six of the rules or regulations that are relied upon to meet the aggregate emissions reduction commitments have already been adopted, and four of the six have been submitted to the EPA as revisions to the SIP. Taking into account the emissions reductions associated with rules or regulations already adopted and submitted (3.4 tpd NO_X) reduces the remaining percentage associated with the commitments from 18 percent to approximately 7 percent, which is well within historical norms for EPA approvals of enforceable commitments. Thus, we find that the District's and CARB commitments in the 2020 Plan for San Diego County for the 2015 ozone NAAQS address a limited proportion of the required emissions reductions.

ii. The State Is Capable of Fulfilling Its Commitment

For the second factor, we consider whether the District and CARB are capable of fulfilling their commitments. All six rules or regulations that the District and CARB are relying on to meet the aggregate emissions reduction commitments have been adopted, and four have been submitted to the EPA as revisions to the California SIP. The emissions reductions associated with the four rules or regulations that have been adopted and submitted amount to approximately 3.4 tpd NO_X, which represents approximately 60 percent of the overall aggregate commitment of 5.7 tpd NO_X. As such, the State and District are well on their way to meeting their commitments. Thus, we believe that the State and District are capable of meeting their enforceable commitments to adopt and submit control measures that will reduce emissions to the levels needed for the 2015 ozone NAAQS in the San

[134] See *Committee for a Better Arvin* v. *EPA,* 786 F.3d 1169 (9th Cir. 2015) (approval of state commitments to propose and adopt emissions control measures and to achieve aggregate emissions reductions for San Joaquin Valley ozone and particulate matter plans upheld); *Physicians for Social Responsibility—Los Angeles* v. *EPA,* 9th Cir., memorandum opinion issued July 25, 2016 (approval of air district commitments to propose and adopt measures and to achieve aggregate emissions reductions for South Coast 1-hour ozone plan upheld).

[135] See our approval of these plans: San Joaquin Valley (SJV) PM_{10} Plan at 69 FR 30006 (May 26, 2004); SJV 1-hour ozone plan at 75 FR 10420 (March 8, 2010); Houston-Galveston 1-hour ozone plan at 66 FR 57160 (November 14, 2001); South Coast 1997 8-hour ozone plan at 77 FR 12674 (March 1, 2012); and South Coast 1-hour ozone plan at 79 FR 52526 (September 3, 2014).

Diego County area by the 2032 attainment year.

iii. The Commitment Is for a Reasonable and Appropriate Timeframe

For the third and final factor, we consider whether the commitment is for a reasonable and appropriate period of time. All six rules or regulations that the District and State are relying on to meet the commitments have been adopted, and four have been submitted to the EPA as revisions to the California SIP. The District and CARB have committed to take the necessary actions and to achieve the remaining reductions by 2032. We believe that this period is appropriate given the technological and economic challenges associated with the rules and regulations adopted to achieve these reductions. In addition, these reductions are not needed to meet RFP targets for the 2015 ozone NAAQS. Thus, the commitments are for a reasonable and appropriate period of time.

The reductions of NO_X and VOC in the area, detailed in the control strategy in the 2020 Plan, allow for expeditious attainment of both the 2008 and 2015 ozone NAAQS in the San Diego County area. The attainment years chosen by the District comport with those required by the Act for a Severe ozone nonattainment area for the 2008 and 2015 ozone NAAQS. For the reasons described in this document and based on CARB's and the District's demonstration specific to the San Diego County area described in the 2020 Plan, we propose to find the District's control strategy acceptable for purposes of attaining the 2008 ozone NAAQS and the 2015 ozone NAAQS in the San Diego County area. For additional information, please see the Modeling TSD for this action.

c. Attainment Demonstration

Based on our proposed determinations that the photochemical modeling and control strategy are acceptable, we propose to approve the attainment demonstrations for the 2008 ozone NAAQS and for the 2015 ozone NAAQS in the 2020 San Diego County Ozone SIP as meeting the requirements of CAA section 182(c)(2)(A), 40 CFR 51.1108 and 40 CFR 51.1308.

D. Rate of Progress Plan and Reasonable Further Progress Demonstration

1. Statutory and Regulatory Requirements

Requirements for RFP for ozone nonattainment areas are specified in CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B). Under CAA section 171(1), RFP is defined as meaning such annual incremental reductions in emissions of the relevant air pollutant as are required under part D (''Plan Requirements for Nonattainment Areas'') of the CAA or as may reasonably be required by the EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable date. CAA section 182(b)(1) specifically requires that ozone nonattainment areas classified as Moderate or above demonstrate a 15 percent reduction in VOC between the years of 1990 and 1996. The EPA has typically referred to section 182(b)(1) as the rate of progress (ROP) requirement. For ozone nonattainment areas classified as Serious or higher, section 182(c)(2)(B) requires VOC reductions of at least 3 percent of baseline emissions per year, averaged over each consecutive three-year period, beginning six years after the baseline year until the attainment date. Under CAA section 182(c)(2)(C), a state may substitute NO_X emissions reductions for VOC emissions reductions if such reductions would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emissions reductions otherwise required. Additionally, CAA section 182(c)(2)(B)(ii) allows an amount less than 3 percent of such baseline emissions each year if a state demonstrates to the EPA that its plan includes all measures that can feasibly be implemented in the area in light of technological achievability.

In the 2008 Ozone SRR, the EPA provides that areas classified Moderate or higher will have met the ROP requirements of CAA section 182(b)(1) if the area has a fully approved 15 percent ROP plan for the 1-hour or 1997 ozone NAAQS.[136] For such areas, the EPA interprets the RFP requirements of CAA section 172(c)(2) to require areas classified as Moderate to provide a 15 percent emissions reduction of ozone precursors within six years of the baseline year. Areas classified as Serious or higher must meet the RFP requirements of CAA section 182(c)(2)(B) by providing an 18 percent reduction of ozone precursors in the first 6-year period, and an average ozone precursor emissions reduction of 3 percent per year for all remaining 3-year periods thereafter.[137] The 2008 Ozone SRR allows substitution of NO_X reductions for VOC reductions to meet the CAA section 172(c)(2) and 182(c)(2)(B) RFP requirements.[138]

In the 2015 Ozone SRR, as with the 2008 Ozone SRR, the EPA provides that areas classified Moderate or higher will have met the ROP requirements of CAA section 182(b)(1) if the area has a prior, fully approved 15 percent ROP plan.[139] For such areas, the EPA interprets the RFP requirements of CAA section 172(c)(2) to require areas classified as Moderate to provide a 15 percent emissions reduction of ozone precursors within six years of the baseline year. Areas classified as Serious or higher must meet the RFP requirements of CAA section 182(c)(2)(B) by providing an 18 percent reduction of ozone precursors in the first 6-year period, and an average ozone precursor emissions reduction of 3 percent per year for all remaining 3-year periods thereafter.[140] The 2015 Ozone SRR allows substitution of NO_X reductions for VOC reductions to meet the CAA section 172(c)(2) and 182(c)(2)(B) RFP requirements.[141]

Except as specifically provided in CAA section 182(b)(1)(C), emissions reductions from all SIP-approved, federally promulgated, or otherwise SIP-creditable measures that occur after the baseline year are creditable for purposes of demonstrating that the RFP targets are met. Because the EPA has determined that the passage of time has caused the effect of certain exclusions to be de minimis, the RFP demonstration is no longer required to calculate and specifically exclude reductions from measures related to motor vehicle exhaust or evaporative emissions promulgated by January 1, 1990; regulations concerning Reid vapor pressure promulgated by November 15, 1990; measures to correct previous RACT requirements; and measures required to correct previous inspection and maintenance (I/M) programs.[142]

The 2008 Ozone SRR requires the RFP baseline year to be the most recent calendar year for which a complete triennial inventory was required to be submitted to the EPA. For the purposes of developing RFP demonstrations for the 2008 ozone NAAQS, the applicable triennial inventory year is 2011.[143] The 2015 Ozone SRR similarly requires the RFP baseline year to be the most recent calendar year for which a complete

[136] 80 FR 12264, 12271 (March 6, 2015); 40 CFR 51.1110(a)(2).

[137] Id.

[138] Id.; 40 CFR 51.1110(a)(2)(i)(C) and 40 CFR 51.1110(a)(2)(ii)(B).

[139] 83 FR 62998, 63004 (December 6, 2018); 51.1310(a)(2).

[140] Id.

[141] Id.; 40 CFR 51.1310(a)(2)(i)(B) and 40 CFR 51.1310(a)(2)(ii)(B).

[142] 40 CFR 51.1110(a)(7) and 40 CFR 51.1310(a)(7).

[143] 40 CFR 51.1110(b).

triennial inventory was required to be submitted to the EPA.[144] For the purpose of developing RFP demonstrations for the 2015 ozone NAAQS, the applicable triennial inventory year is 2017.[145]

2. Summary of the State's Submission

For both the 2008 and 2015 ozone NAAQS, the 2020 Plan cites the EPA's 1997 approval of the 15 percent VOC-only ROP plan for the one-hour ozone NAAQS as the basis for concluding that the San Diego County area had met the 15 percent VOC-only ROP plan SIP requirement.[146]

For the RFP demonstration for the 2008 ozone NAAQS, the 2020 Plan includes updated inventories of ozone precursor emissions (VOC and NO_X) for 2017, the first RFP milestone year and the year from which future-year inventories are projected. As described further in Section III.A (''Emissions Inventories'') of this document, the RFP baseline year of 2011 was, for the most part, backcast from the 2017 emissions inventories except for point sources, which are based on actual reported emissions from the individual facilities.

To develop the emissions inventories for remaining RFP milestone years (2020 and 2023) and the attainment year (2026), the District and CARB relied upon the same growth and control factors used in the attainment demonstration, and included certain growth increments for the military and SDIA and certain adjustments (such as ERCs and EMFAC2017 Adjustment Factors impacts), as further described in Section III.A (''Emissions Inventories'') of this document.

The RFP demonstration for the San Diego County area for the 2008 ozone NAAQS is provided in Section 3.2.2.3 of the 2020 Plan and is presented in Table 10 of this document. The RFP demonstration calculates future year VOC targets from the 2011 baseline, consistent with CAA section 182(c)(2)(B)(i), which requires reductions of ''at least 3 percent of baseline emissions each year,'' and it substitutes NO_X reductions for VOC reductions beginning in milestone year 2017 to meet VOC emissions targets.[147] As shown in Table 10, the 2020 Plan provides a demonstration of RFP for each milestone year as well as the attainment year for the 2008 ozone NAAQS.

TABLE 10—RFP DEMONSTRATION FOR SAN DIEGO COUNTY FOR THE 2008 OZONE NAAQS

[Summer planning inventory, tpd or percent]

	VOC				
	2011	2017	2020	2023	2026
Baseline VOC Emissions (tpd)	136.6	112.9	107.0	102.4	99.7
Change in VOC since 2011 (tpd)	.....	23.7	29.6	34.2	36.9
Change in VOC since 2011 (percent)	.....	17.4%	21.7%	25.1%	27.0%
Required percentage change since 2011	.....	18%	27%	36%	45%
Shortfall (−)/Surplus (+) in VOC (percent)	.....	−0.6%	−5.3%	−10.9%	−18.0%
	NO_X				
	2011	2017	2020	2023	2026
Baseline NO_X Emissions (tpd)	110.7	77.0	67.1	56.8	53.6
Change in NO_X since 2011 (tpd)	.....	33.7	43.6	53.9	57.1
Change in NO_X since 2011 (percent)	.....	30.5%	39.3%	48.7%	51.6%
NO_X reductions since 2011 used for VOC substitution in this milestone year (percent)	.....	0.6%	5.3%	10.9%	18.0%
NO_X reductions since 2011 surplus after meeting VOC substitution needs in this milestone year (percent)	.....	29.8%	34.0%	37.8%	33.6%
RFP shortfall (if any) (percent)	.....	0%	0%	0%	0%
RFP met?	.....	Yes	Yes	Yes	Yes

Source: 2020 Plan, Table 3–3.

For the RFP demonstration for the 2015 ozone NAAQS, the 2020 Plan includes updated inventories of ozone precursor emissions for 2017, which is the baseline year and the year from which future-year inventories are projected. To develop the emissions inventories for RFP milestone years (2023, 2026 and 2029) and the attainment year (2032), the District and CARB relied upon the same growth and control factors as used in the attainment demonstration, and included certain growth increments for the military and SDIA and certain adjustments (such as ERCs and EMFAC2017 Adjustment Factors impacts), as further described in Section III.A (''Emissions Inventories'') of this document.

The RFP demonstration for the San Diego County area for the 2015 ozone NAAQS is shown in Table 11 of this document. The RFP demonstration calculates future year VOC targets from the 2017 baseline, consistent with CAA section 182(c)(2)(B)(i), which requires reductions of ''at least 3 percent of baseline emissions each year,'' and it substitutes NO_X reductions for VOC reductions beginning in milestone year 2023 to meet VOC emission targets.[148] For the San Diego County area, CARB concludes that the RFP demonstration meets the applicable requirements for each milestone year as well as the attainment year for the 2015 ozone NAAQS.

[144] 40 CFR 51.1310(b).

[145] 2015 Ozone SRR, 63005.

[146] 2020 Pan, Sections 3.2.2.1 and 4.2.2.1.

[147] NO_X substitution is permitted under EPA regulations for the 2008 ozone NAAQS. See 40 CFR 51.1110(a)(2)(i)(C) and 40 CFR 51.1110(a)(2)(ii)(B); and 80 FR 12264, at 12271 (March 6, 2015).

[148] NO_X substitution is permitted under EPA regulations for the 2015 ozone NAAQS. See 40 CFR 51.1310(a)(2)(i)(B) and 40 CFR 51.1310(a)(2)(ii)(B); and 83 FR 62998, at 63004 (December 6, 2018).

TABLE 11—RFP DEMONSTRATION FOR SAN DIEGO COUNTY FOR THE 2015 OZONE NAAQS

[Summer planning inventory, tpd or percent]

	VOC				
	2017	2023	2026	2029	2032
Baseline VOC Emissions (tpd)	112.9	102.4	99.7	98.2	97.2
Change in VOC since 2017 (tpd)	.....	10.5	13.2	14.6	15.7
Change in VOC since 2017 (percent)	.....	9.3%	11.7%	13.0%	13.9%
Required percentage change since 2017	.....	18%	27%	36%	45%
Shortfall (−)/Surplus (+) in VOC (percent)	.....	−8.7%	−15.3%	−23.0%	−31.1%
	NO_X				
	2017	2023	2026	2029	2032
Baseline NO_X Emissions (tpd)	77.0	56.8	53.6	51.3	49.7
Change in NO_X since 2017 (tpd)	.....	20.2	23.4	25.6	27.3
Change in NO_X since 2017 (percent)	.....	26.3%	30.4%	33.3%	35.5%
NO_X reductions since 2017 used for VOC substitution in this milestone year (percent)	.....	8.7%	15.3%	23.0%	31.1%
NO_X reductions since 2017 surplus after meeting VOC substitution needs in this milestone year (percent)	.....	17.6%	15.1%	10.3%	4.3%
RFP shortfall (if any) (percent)	.....	0%	0%	0%	0%
RFP met?	.....	Yes	Yes	Yes	Yes

Source: 2020 Plan, Table 4–5.

3. The EPA's Review of the State's Submission

In 1997, the EPA approved a 15 percent ROP plan for San Diego County for the 1-hour ozone NAAQS.[149] The San Diego County nonattainment areas for the 2008 and 2015 ozone NAAQS are essentially the same geographic area as the nonattainment area for the 1-hour ozone NAAQS, and thus, we agree with the conclusion in the 2020 Plan that the ROP requirements of CAA section 182(b)(1) for the San Diego County area have been met and that, as a result, there is no need to demonstrate another 15 percent reduction in VOC for this area.

The RFP demonstrations in the 2020 Plan derive from the same emissions inventories as presented in Section III.A (''Emissions Inventories'') of this document. In Section III.A, we are proposing to approve the 2011 and 2017 base year emissions inventories for the 2008 and 2015 ozone NAAQS, respectively. With respect to the future year emissions baseline projections, as further explained in Section III.A of this document, we have reviewed the growth and control factors and find them acceptable and conclude that the future baseline emissions projections in the 2020 Plan reflect appropriate calculation methods and the latest planning assumptions and appropriately account for the growth increments for the military and SDIA as well as the adjustments for ERCs and the EMFAC2017 Adjustment Factors. In addition, we have reviewed the calculations in Table 3–3 and Table 4–5 of the 2020 Plan and find that the District and CARB have used an appropriate calculation method to demonstrate RFP.[150]

CARB provided support for substituting NO_X reductions for VOC reductions in the San Diego County area in Attachment K to the 2020 Plan and supplemented that information in an attachment to an email to the EPA dated September 1, 2023.[151] Combining the information from Attachment K in the 2020 Plan with additional explanation and analysis in the attachment, CARB presents two approaches to understanding the relationship between the two ozone precursors, NO_X and VOC, in the area. First, CARB presents a table comparing emissions of the precursors over time and the modeled ozone design value. This table is shown here as Table 12 of this document (replacing the term ROG for VOC).

TABLE 12—OZONE DESIGN VALUES IN SAN DIEGO COUNTY AND THE CORRESPONDING EMISSIONS OF NO_X AND VOC IN THE SAN DIEGO COUNTY AREA

Scenario	Design value (ppb)	Emissions (tpd)	
		NO_X	VOC
Base Year (2017)	83.0	77.0	116.0
Attainment Year (2032)	71.1	43.4	96.5
Attainment Year (2032) with a 10 percent reduction in NO_X	69.9	39.1	96.5

Sources: 2020 Plan, Attachment K, Section K.3.5 (''NO_X Sensitivity Analysis''); Attachment to September 1, 2023 email from CARB to the EPA.

[149] 62 FR 1150, 1183 (January 8, 1997).

[150] We note that the weight of evidence demonstration provided in Attachment M to the 2020 Plan generally supports the substitution of NO_X emissions reductions for VOC emissions reductions for the RFP demonstrations for the 2008 and 2015 ozone NAAQS. See Modeling TSD, at 32 and 33.

[151] Email dated September 1, 2023, from Chenxia Cai, CARB, with attachment, to John J. Kelly, EPA.

Table 12 of this document presents CARB's summary data regarding NO_X sensitivity in the area, including the emissions of NO_X and VOC for the 2015 ozone NAAQS base year (2017) and the future attainment year (2032), as well as the measured 2017 ozone design value (83.0 ppb) and the predicted 2032 design value (71.1 ppb) with emissions reflecting business-as-usual, that is, without further emissions reductions. The fourth row of the table shows the DV predicted for the 2032 attainment year if there were an additional NO_X reduction of ten percent from the business-as-usual scenario. When NO_X emissions in the area are modeled at 39.1 tpd, the modeled design value for the area is 69.9 ppb, a design value that meets the 2015 ozone NAAQS. DVs are approximately linear with respect to the corresponding NO_X emissions in Table 12, indicating that the reduction of NO_X likely plays a dominant role in the attainment demonstration in the 2020 Plan.

Second, CARB presents information from a series of sensitivity tests for the area, in order to provide additional insight into the relative impact of reducing NO_X and VOC on the modeled design value for the area. These simulations use different data than the 2020 Plan, including a different model year, domain, and a 2018 emissions inventory base year. However, the (2018) baseline emissions used for the simulations are similar enough to the baseline emissions (2017) used for the 2020 Plan that the results of the simulations provide useful information with which to evaluate the reliance on NO_X substitution in the 2020 Plan for the RFP demonstrations for compliance with CAA section 182(c)(2)(C).[152]

The simulations were run from values of twenty percent to 100 percent of baseline emissions to produce ''design value isopleths'' at the Alpine monitoring site, the long-standing design value monitoring site in San Diego County. Such isopleths can be used to predict what the effect would be on the design value if either NO_X or VOC emissions were held constant while the other ozone precursor were altered. Based on the isopleths produced by the simulations, a reduction of NO_X of 40 percent (from 2018 baseline emissions) results in a decrease in the design value (from 2018) at the Alpine monitoring site to the level of the 2008 ozone NAAQS whereas the same decrease in the design value requires a 60 percent decrease in VOC emissions (from 2018 baseline emissions). The isopleths that were produced by these simulations indicate that the design value in this area is more sensitive to decreases in NO_X, and that the effect is more pronounced at lower NO_X emissions. For example, if NO_X emissions were held constant at 20 percent of the 2018 baseline, a change in VOC levels has almost no effect on the design value modeled for the area (in this case, around 60 ppb), whereas at a design value of 70.9 ppb, the design value is noticeably dependent on both pollutants, but still more sensitive to NO_X. This isopleth indicates that NO_X control is more effective than VOC control in the area on both a percentage and a per ton basis. As such, we find that the reliance on NO_X substitution for RFP demonstration purposes in the 2020 Plan to be consistent with the requirements of CAA section 182(c)(2)(C).

For these reasons, we have determined that the 2020 Plan demonstrates RFP in each milestone year, as well as in each attainment year (2026 for the 2008 ozone NAAQS and 2032 for the 2015 ozone NAAQS), consistent with applicable CAA requirements and EPA guidance and rulemakings. We therefore propose to approve the RFP demonstrations for the San Diego County area for the 2008 ozone NAAQS and for the 2015 ozone NAAQS under sections 172(c)(2), 182(b)(1) and 182(c)(2)(B) of the CAA, 40 CFR 51.1110(a)(2), 40 CFR 51.1110(a)(2)(i) and (ii), 40 CFR 51.1310(a)(2) and 40 CFR 51.1310(a)(2)(ii).

E. Transportation Control Strategies and Measures To Offset Emissions Increases From Vehicle Miles Traveled

1. Statutory and Regulatory Requirements

Section 182(d)(1)(A) of the Act requires, in relevant part, a state to submit, for each area classified as Severe or above, a SIP revision that ''identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or number of vehicle trips in such area.'' [153] Herein, we use ''VMT'' to refer to vehicle miles traveled and refer to the related SIP requirement as the ''VMT emissions offset requirement.'' In addition, we refer to the SIP revision intended to demonstrate compliance with the VMT emissions offset requirement as the ''VMT emissions offset demonstration.'' The 2008 and 2015 SRRs extend the VMT emissions offset requirement to Severe and above areas for the 2008 and 2015 ozone NAAQS at 40 CFR 51.1102 and 40 CFR 51.1302, respectively.

In *Association of Irritated Residents* v. *EPA,* the Ninth Circuit ruled that additional transportation control measures are required whenever vehicle emissions are projected to be higher than they would have been had VMT not increased, even when aggregate vehicle emissions are actually decreasing.[154] In response to the court's decision, in August 2012, the EPA issued guidance titled ''Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled'' (''August 2012 Guidance'').[155]

The August 2012 Guidance discusses the meaning of ''transportation control strategies'' (TCSs) and ''transportation control measures'' (TCMs) and recommends that both TCSs and TCMs be included in the calculations made for the purpose of determining the degree to which any hypothetical growth in emissions due to growth in VMT should be offset. Generally, TCS is a broad term that encompasses many types of controls (including, for example, motor vehicle emissions limitations, I/M

[152] For example, the 2017 baseline emissions in the 2020 Plan for the San Diego County nonattainment area are 77 tpd for NO_X and 113 tpd for VOC (see Table 1 of this document—not including emissions beyond three NM from the coast), whereas the 2018 baseline emissions used for the simulations are 75 tpd for NO_X and 112 tpd for VOC.

[153] CAA section 182(d)(1)(A) includes three separate elements. In short, under section 182(d)(1)(A), states are required to adopt transportation control strategies and measures to offset growth in emissions from growth in VMT, and, as necessary, in combination with other emission reduction requirements, to demonstrate RFP and attainment. For more information on the EPA's interpretation of the three elements of section 182(d)(1)(A), see 77 FR 58067 at 58068 (September 19, 2012) (proposed withdrawal of approval of South Coast VMT emissions offset demonstrations). In Section III.E of this document, we address the first element of CAA section 182(d)(1)(A) (*i.e.,* the VMT emissions offset requirement). In Sections III.C and III.D of this document, we propose to approve the attainment demonstrations and RFP demonstrations, respectively, for the 2008 ozone NAAQS and for the 2015 ozone NAAQS in the San Diego County area. Compliance with the second and third elements of section 182(d)(1)(A) is predicated on final approval of the attainment and RFP demonstrations.

[154] See *Association of Irritated Residents* v. *EPA,* 632 F.3d. 584, at 596–597 (9th Cir. 2011), reprinted as amended on January 27, 2012, 686 F.3d 668, further amended February 13, 2012 (''*Association of Irritated Residents*'').

[155] EPA, ''Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled,'' EPA–420–B–12–053, August 2012, *https://nepis.epa.gov/Exe/ZyPDF.cgi/P100EZ4X.PDF?Dockey=P100EZ4X.PDF.*

programs, alternative fuel programs, other technology-based measures, and TCMs) that would fit within the regulatory definition of ''control strategy.'' [156] A TCM is defined at 40 CFR 51.100(r) as ''any measure that is directed toward reducing emissions of air pollutants from transportation sources,'' including, but not limited to, those listed in section 108(f) of the Clean Air Act. TCMs generally refer to programs intended to reduce VMT, number of vehicle trips, or traffic congestion, such as programs for improved public transit, designation of certain lanes for passenger buses and high-occupancy vehicles, and trip reduction ordinances.

The August 2012 Guidance explains how states may demonstrate that the VMT emissions offset requirement is satisfied in conformance with the Court's ruling in *Association of Irritated Residents.* Under the August 2012 Guidance, states would develop one emissions inventory for the base year and three different emissions inventory scenarios for the attainment year.[157] The base year on-road VOC emissions should be calculated using VMT in that year, and they should reflect all enforceable TCSs and TCMs in place in the base year. This would include vehicle emissions standards, state and local control programs, such as I/M programs or fuel rules, and any additional implemented TCSs and TCMs that were already required by or credited in the SIP as of that base year.

The first of the emissions calculations for the attainment year would be based on the projected VMT and trips for that year and assume that no new TCSs or TCMs beyond those already credited in the base year inventory have been put in place since the base year. This calculation demonstrates how emissions would hypothetically change if no new TCSs or TCMs were implemented, and VMT and trips were allowed to grow at the projected rate from the base year. This estimate would show the potential for an increase in emissions due solely to growth in VMT and trips. This represents a ''no action'' scenario. Emissions in the attainment year in this scenario may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced through fleet turnover; however, provided VMT and/or numbers of vehicle trips in fact increase by the attainment year, they would still likely be higher than they would have been assuming VMT had held constant.

The second of the attainment year's emissions calculations would assume that no new TCSs or TCMs beyond those already credited have been put in place since the base year, but it would also assume that there was no growth in VMT and trips between the base year and attainment year. This estimate reflects the hypothetical emissions level that would have occurred if no further TCMs or TCSs had been put in place and if VMT and trip levels had held constant since the base year. Like the ''no action'' attainment year estimate, emissions in the attainment year may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced by cleaner vehicles through fleet turnover, but in this case they would not be influenced by any growth in VMT or trips. This emissions estimate would reflect a ceiling on the attainment emissions that should be allowed to occur under the statute as interpreted by the Court in *Association of Irritated Residents* because it shows what would happen under a scenario in which no offsetting TCSs or TCMs have yet been put in place and VMT and trips are held constant during the period from the area's base year to its attainment year. This represents a ''VMT offset ceiling'' scenario. These two hypothetical status quo estimates are necessary steps in identifying the target level of emissions from which states would determine whether further TCMs or TCSs, beyond those that have been adopted and implemented, would need to be adopted and implemented in order to fully offset any increase in emissions due solely to VMT and trips identified in the ''no action'' scenario.

Finally, the state would present the emissions that are expected to occur in the area's attainment year after taking into account reductions from all enforceable TCSs and TCMs. This estimate would be based on the VMT and trip levels expected to occur in the attainment year (*i.e.,* the VMT and trip levels from the first estimate) and all of the TCSs and TCMs expected to be in place and for which the SIP will take credit in the area's attainment year, including any TCMs and TCSs put in place since the base year. This represents the ''projected actual'' attainment year scenario. If this emissions estimate is less than or equal to the emissions ceiling that was established in the second of the attainment year calculations, the TCSs and TCMs implemented by the attainment year would be sufficient to fully offset the identified hypothetical growth in emissions.

If, instead, the estimated projected actual attainment year emissions are still greater than the ceiling that was established in the second of the attainment year emissions calculations, even after accounting for post-baseline year TCSs and TCMs, the state would need to adopt and implement additional TCSs or TCMs to further offset the growth in emissions. The additional TCSs or TCMs would need to bring the actual emissions down to at least the VMT offset ceiling estimated in the second of the attainment year calculations, in order to meet the VMT offset requirement of section 182(d)(1)(A) as interpreted by the Court.

2. Summary of State's Submission

CARB prepared the VMT emissions offset demonstration for San Diego County for the 2008 ozone NAAQS and for the 2015 ozone NAAQS. The District referenced the State's demonstration in Sections 3.1.3 and 4.1.3 of the 2020 Plan and included the demonstration itself in Attachment N (''VMT Offset Demonstration for San Diego County'').[158] In addition to the VMT emissions offset demonstration, Attachment N of the 2020 Plan includes two appendices—one listing the TCSs adopted by CARB since 1990 and another listing the TCMs adopted by SANDAG (as of 2018) in San Diego County.[159] Based on the demonstration included as Attachment N of the 2020 Plan, the District concludes that the TCSs and TCMs identified in Attachment N offset the growth in emissions due to growth in VMT, thus satisfying the VMT emissions offset requirement for both the 2008 and 2015 ozone NAAQS.

In Attachment N of the 2020 Plan, CARB presents the VMT offset demonstration for the area. For this demonstration, CARB used EMFAC2017, the latest EPA-approved motor vehicle emissions model for California available at the time the 2020 Plan was developed.[160] The EMFAC2017 model estimates the on-road emissions from two combustion processes (*i.e.,* running exhaust and start exhaust) and four evaporative processes (*i.e.,* hot soak, running losses, diurnal losses, and resting losses). The EMFAC2017 model combines trip-based VMT and speed distribution data from the regional transportation planning

[156] See, *e.g.,* 40 CFR 51.100(n).

[157] See the August 2012 Guidance for specific details on how states might conduct the calculations.

[158] 2020 Plan, pp. 37, 57 and N–1.

[159] 2020 Plan, Attachment N, Appendix A–1, ''State of California Motor Vehicle Control Program (1990–Present); Appendix A–2, ''Adopted Transportation Control Measures.''

[160] 84 FR 41717 (August 15, 2019).

agency (*i.e.,* SANDAG), starts data based on household travel surveys, and vehicle population data from the California Department of Motor Vehicles. These sets of data are combined with corresponding emissions rates to calculate emissions.

Emissions from running exhaust, start exhaust, hot soak, and running losses are a function of how much a vehicle is driven. Emissions from these processes are thus directly related to VMT and vehicle trips, and CARB included these emissions in the calculations that provide the basis for the San Diego County VMT emissions offset demonstration. CARB did not include emissions from resting loss and diurnal loss processes in the analysis because such emissions are related to vehicle population, not to VMT or vehicle trips, and thus are not part of ''any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area'' under CAA section 182(d)(1)(A).

The San Diego County VMT emissions offset demonstration for the 2008 ozone NAAQS uses a 2011 base year. The base year for VMT emissions offset demonstration purposes should generally be the same base year used for nonattainment planning purposes. In Section III.A of this document, the EPA is proposing to approve the 2011 base year inventory for San Diego County for the purposes of the 2008 ozone NAAQS, and thus, CARB's selection of 2011 as the base year for the area's VMT emissions offset demonstration for the 2008 ozone NAAQS is appropriate.

The San Diego County VMT emissions offset demonstration for the 2008 ozone NAAQS also includes the three different attainment year scenarios (*i.e.,* no action, VMT offset ceiling, and projected actual) described in Section III.E.1 of this document. The 2020 Plan provides a demonstration of attainment of the 2008 ozone NAAQS in San Diego County by the applicable attainment date, based on the controlled 2026 emissions inventory. As described in Section III.C of this document, the EPA is proposing to approve the attainment demonstration for the 2008 ozone NAAQS for San Diego County, and thus, we find CARB's selection of year 2026 as the attainment year for the VMT emissions offset demonstration for the 2008 ozone NAAQS to be acceptable.

Table 13 of this document summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates for the demonstration for the 2008 ozone NAAQS.

TABLE 13—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR 2008 OZONE NAAQS

Scenario	VMT (1,000/day)	Starts (trips) (1,000/day)	VOC emissions (tpd)
Base Year (2011)	82,640	11,596	33
No Action (2026)	87,279	12,278	12
VMT Offset Ceiling (2026)	82,640	11,625	11
Projected Actual (2026)	87,279	12,008	10

Sources: 2020 Plan, Tables N–1 and N–2; supplemental email dated April 27, 2023, from Nesamani Kalandiyur, CARB, with attachment to John J. Kelly, EPA.

For the base year scenario, CARB ran the EMFAC2017 model for the 2011 base year using VMT and starts data corresponding to that year. As shown in Table 13, CARB estimates San Diego County VOC emissions at 33 tpd in 2011.

For the ''no action'' scenario, CARB first identified the on-road motor vehicle control programs (*i.e.,* TCSs [161]) put in place since the base year and incorporated into EMFAC2017, and then ran EMFAC2017 with the VMT and starts data corresponding to the 2026 attainment year without the emissions reductions from the on-road motor vehicle control programs put in place after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions in the attainment year if CARB had not put in place any additional TCSs after 2011. As shown in Table 13, CARB estimates the ''no action'' San Diego County VOC emissions at 12 tpd in 2026.

For the ''VMT offset ceiling'' scenario, CARB ran the EMFAC2017 model for the attainment year but with VMT and starts data corresponding to base year values. Like the no action scenario, the EMFAC2017 model was adjusted to reflect the VOC emissions levels in the attainment years without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in San Diego County if CARB had not put in place any TCSs after the base year and if there had been no growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the ''no action'' scenario and the corresponding estimates under the ''VMT offset ceiling'' scenario. Based on the values in Table 13, the hypothetical growth in emissions due to growth in VMT and trips in San Diego County would have been 1 tpd (*i.e.,* 12 tpd minus 11 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCSs and any necessary additional TCSs.

For the ''projected actual'' scenario calculation, CARB ran the EMFAC2017 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs put in place since the base year. Between 2000 and 2019, annual VOC emissions in San Diego County declined 48 percent, approximately 65 percent of which was due to reductions from light-duty passenger vehicles.[162] As shown in Table 13 of this document, on-road VOC emissions are projected to decline by more than two-thirds (from 33 tpd to 10 tpd), from the 2011 base year to the 2026 attainment year. The most significant measures reducing VOC emissions during this timeframe are the regulations included in the Advanced Clean Cars regulatory package, such as the Low Emission Vehicle (LEV) III regulations that establish increasingly stringent emission standards for both criteria pollutants and greenhouse gases for new passenger vehicles through the 2025 model year and the Zero-Emission

[161] 2020 Plan, Attachment N, table N–5.

[162] 2020 Plan, Attachment M, ''Weight of Evidence Demonstration for San Diego County,'' Table M–4.

Vehicle (ZEV) sales mandate regulations.[163]

As shown in Table 13, the projected actual attainment-year VOC emissions are 10 tpd. CARB compared this value against the corresponding VMT offset ceiling value to determine whether additional TCSs or TCMs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions are less than the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that the adopted TCSs are sufficient to offset the growth in emissions from the growth in VMT and vehicle trips in the San Diego County area for the 2008 ozone NAAQS.

The San Diego County VMT emissions offset demonstration for the 2015 ozone NAAQS uses a 2017 base year. The base year for VMT emissions offset demonstration purposes should generally be the same base year used for nonattainment planning purposes. In Section III.A of this document, the EPA is proposing to approve the 2017 base year inventory for the San Diego County area for the purposes of the 2015 ozone NAAQS, and thus, CARB's selection of 2017 as the base year for the area's VMT emissions offset demonstration for the 2015 ozone NAAQS is appropriate.

The San Diego County area VMT emissions offset demonstration for the 2015 ozone NAAQS also includes the three different attainment year scenarios (*i.e.,* no action, VMT offset ceiling, and projected actual) described in Section III.E.1. The 2020 Plan provides a demonstration of attainment of the 2015 ozone NAAQS in the San Diego County area by the applicable attainment date, based on the controlled 2032 emissions inventory. As described in Section III.C of this document, the EPA is proposing to approve the attainment demonstration for the 2015 ozone NAAQS for the San Diego County area, and thus, we find CARB's selection of year 2032 as the attainment year for the VMT emissions offset demonstration for the 2015 ozone NAAQS to be acceptable.

Table 14 of this document summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates for the demonstration for the 2015 ozone NAAQS.

TABLE 14—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR 2015 OZONE NAAQS

Scenario	VMT (1,000/day)	Starts (trips) (1,000/day)	VOC emissions (tpd)
Base Year (2017)	83,217	10,783	18
No Action (2032)	91,751	13,411	10
VMT Offset Ceiling (2032)	83,217	12,164	9
Projected Actual (2032)	91,751	13,130	8

Sources: 2020 Plan, Tables N–1 and N–2; supplemental email dated April 27, 2023, from Nesamani Kalandiyur, CARB, with attachment, to John J. Kelly, EPA.

For the base year scenario, CARB ran the EMFAC2017 model for the 2017 base year using VMT and starts data corresponding to that year. As shown in Table 14, CARB estimates San Diego County VOC emissions at 18 tpd in 2017.

For the ''no action'' scenario, CARB first identified the on-road motor vehicle control programs (*i.e.,* TCSs [164]) put in place since the base year and incorporated into EMFAC2017, and then ran EMFAC2017 with the VMT and starts data corresponding to the 2032 attainment year without the emissions reductions from the on-road motor vehicle control programs put in place after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions in the attainment year if CARB had not put in place any additional TCSs after 2017. As shown in Table 14 of this document, CARB estimates the ''no action'' San Diego County VOC emissions at 10 tpd in 2032.

For the ''VMT offset ceiling'' scenario, CARB ran the EMFAC2017 model for the attainment year but with VMT and starts data corresponding to base year values. Like the no action scenario, the EMFAC2017 model was adjusted to reflect the VOC emissions levels in the attainment years without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in San Diego County if CARB had not put in place any TCSs after the base year and if there had been no growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the ''no action'' scenario and the corresponding estimates under the ''VMT offset ceiling'' scenario. Based on the values in Table 14 of this document, the hypothetical growth in emissions due to growth in VMT and trips in San Diego County would have been 1 tpd (*i.e.,* 10 tpd minus 9 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCSs and any necessary additional TCSs.

For the ''projected actual'' scenario calculation, CARB ran the EMFAC2017 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs put in place since the base year. Between 2000 and 2019, annual VOC emissions in San Diego County declined 48 percent, approximately 65 percent of which was due to reductions from light-duty passenger vehicles.[165] Table 14 of this document shows that on-road VOC emissions are projected to decline by more than one half (from 18 tpd to 8 tpd), from the 2017 base year to the 2032 attainment year. Significant VOC emissions reductions during the 2017–2032 timeframe result from the ZEV provisions of the Advanced Clean Cars program.

As shown in Table 14 of this document, the projected actual attainment-year VOC emissions are 8 tpd. CARB compared this value against the corresponding VMT offset ceiling value to determine whether additional TCSs or TCMs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the

[163] See also 2020 Plan, Attachment N, Table N–5.

[164] 2020 Plan, Attachment N, Table N–5.

[165] 2020 Plan, Table M–4.

projected actual emissions are less than the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that the adopted TCSs are sufficient to offset the growth in emissions from the growth in VMT and vehicle trips in the San Diego County area for the 2015 ozone NAAQS.

3. The EPA's Review of the State's Submission

Based on our review of the San Diego County VMT emissions offset demonstration in Attachment N of the 2020 Plan, we find CARB's analysis to be consistent with our August 2012 Guidance and consistent with the emissions and vehicle activity estimates provided by CARB in support of the 2020 Plan. We agree that CARB and SANDAG have adopted sufficient TCSs and TCMs to offset the growth in emissions from growth in VMT and vehicle trips in the San Diego County area for the purposes of both the 2008 ozone NAAQS and the 2015 ozone NAAQS. Therefore, we propose to approve the San Diego County area VMT emissions offset demonstration element of the 2020 San Diego County Ozone SIP as meeting the requirements of CAA section 182(d)(1)(A), 40 CFR 51.1102 and 40 CFR 51.1302.

F. Contingency Measures

1. Statutory and Regulatory Requirements

Under the CAA, ozone nonattainment areas classified under subpart 2 as Serious or above must include in their SIPs contingency measures consistent with sections 172(c)(9) and 182(c)(9). CAA section 172(c)(9) requires states with nonattainment areas to provide for the implementation of specific measures to be undertaken if the area fails to make RFP or to attain the NAAQS by the applicable attainment date. Such measures must be included in the SIP as contingency measures to take effect in any such case without further action by the state or the EPA. CAA section 182(c)(9) requires states to provide contingency measures in the event that an ozone nonattainment area fails to meet any applicable RFP milestone. The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.[166] Contingency measures must be designed so as to be implemented prospectively; already-implemented control measures may not serve as contingency measures even if they provide emissions reductions beyond those needed for any other CAA purpose.[167]

The purpose of contingency measures is to continue progress in reducing emissions while a state revises its SIP to meet the missed RFP requirement or to correct ongoing nonattainment. Neither the CAA nor the EPA's implementing regulations establish a specific level of emissions reductions that implementation of contingency measures must achieve, but the EPA's 2008 Ozone SRR and 2015 Ozone SRR reiterate the EPA's policy that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area.[168] A state cannot rely on already-implemented measures to serve as contingency measures, and in addition, a state cannot rely on already-implemented measures to justify the adoption of a contingency measure or contingency measures that would achieve less than one year's worth of RFP to meet the contingency measures requirements of CAA sections 172(c)(9) and 182(c)(9) for the nonattainment area.[169] As part of the contingency measures SIP revision for a given area, the EPA expects states to explain the amount of anticipated emissions reductions that the contingency measures will achieve. In the event that a state is unable to identify and adopt contingency measures that will provide for approximately one year's worth of RFP, then the EPA recommends that the state provide a reasoned justification why the smaller amount of emissions reductions is appropriate.[170]

In March 2023, the EPA published notice of availability announcing a new draft guidance addressing the contingency measures requirement of section 172(c)(9), entitled: ''DRAFT: Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (DRAFT—3/17/23—Public Review Version)'' (herein referred to as the ''Draft Revised Contingency Measure Guidance'') and opportunity for public comment.[171] The principal differences between the draft revised guidance and existing guidance on contingency measures relate to the EPA's recommendations concerning the specific amount of emissions reductions that implementation of contingency measures should achieve, and the timing for when the emissions reductions from the contingency measures should occur.

Under the draft revised guidance, the recommended level of emissions reductions that contingency measures should achieve would represent one year's worth of ''progress'' as opposed to one year's worth of RFP. One year's worth of ''progress'' is calculated by determining the average annual reductions between the base year emissions inventory and the projected attainment year emissions inventory, determining what percentage of the base year emissions inventory this amount represents, then applying that percentage to the projected attainment year emissions inventory to determine the amount of reductions needed to ensure ongoing progress if contingency measures are triggered.

With respect to the time period within which reductions from contingency measures should occur, the EPA previously recommended that contingency measures take effect within 60 days of being triggered, and that the resulting emissions reductions generally occur within one year of the triggering event. Under the draft revised guidance, in instances where there are insufficient contingency measures available to achieve the recommended amount of emissions reductions within one year of the triggering event, the EPA believes that contingency measures that provide reductions within up to two years of the triggering event would be appropriate to consider towards achieving the recommended amount of emissions reductions. The draft revised guidance does not alter the 60-day recommendation for the contingency measures to take initial effect.

2. Summary of the State's Submission

The 2020 Plan addresses the contingency measures requirement in Section 3.4 for the 2008 ozone NAAQS, Section 4.4 for the 2015 ozone NAAQS and Attachment O (''Contingency Measures for San Diego County'') to the plan. For both ozone NAAQS, the 2020 Plan anticipates the District's adoption of a revision to the District's architectural coatings rule (Rule 67.0.1)

[166] 70 FR 71612 (November 29, 2005); 2008 Ozone SRR, 80 FR 12264, 12285 (March 6, 2015); 2015 Ozone SRR, 83 FR 62998, 63026 (December 6, 2018).

[167] See *Bahr* v. *EPA,* 836 F.3d 1218, 1235–1237 (9th Cir. 2016) (''*Bahr*'') and *Sierra Club* v. *EPA,* 21 F.4th 815, 827–828 (D.C. Cir. 2021).

[168] 2008 Ozone SRR, 80 FR 12264, 12285 (March 6, 2015); 2015 Ozone SRR, 83 FR 62998, 63026 (December 6, 2018).

[169] See *Association of Irritated Residents* v. *EPA,* 10 F.4th 937 (9th Cir. 2021) (''*AIR*'').

[170] 81 FR 58010, 58067 (August 24, 2016).

[171] 88 FR 17571 (March 23, 2023).

to include a specific contingency provision that would narrow the small container exemption in the rule in the event that the area misses an RFP milestone or fails to attain the ozone NAAQS by the applicable attainment date. The District estimates that the anticipated contingency provision in the architectural rule would achieve 0.72 tpd of VOC reductions, *i.e.,* if triggered by the EPA's determination that the area failed to meet an RFP milestone or failed to attain the 2008 or 2015 ozone NAAQS by the applicable attainment date.[172] The estimated emissions reductions from the amended architectural coatings rule (0.72 tpd of VOC) represent approximately 18 percent of one year's worth of RFP for the 2008 ozone NAAQS and approximately 21 percent of one year's worth of RFP for the 2015 ozone NAAQS.[173]

For both ozone NAAQS, the 2020 Plan demonstrates compliance with the contingency measures requirements in CAA sections 172(c)(9) and 182(c)(9) by coupling the anticipated emissions reductions from the contingency provision in the architectural coatings rule with projected surplus VOC and NO_X emissions reductions that are expected to occur due to ongoing State mobile source control programs in San Diego County, providing for approximately one year's worth of RFP in the years following RFP milestone and attainment years.[174] In this context, ''surplus'' emissions reductions refers to emissions reductions that are beyond those required to provide for RFP and attainment for the 2008 and 2015 ozone NAAQS.

Since submission of the 2020 Plan, the District has adopted the contingency provision in the District's architectural coatings rule (District Rule 67.0.1), and CARB has submitted the amended rule to the EPA as a revision to the California SIP. In late 2022, the EPA took final action to approve amended Rule 67.0.1.[175] In our final rule approving amended Rule 67.0.1, we concluded that the contingency provision in the amended rule (paragraph (b)(6) of the rule) meets the requirements for individual contingency measures under CAA sections 172(c)(9) and 182(c)(9). However, we also indicated that, while the amended rule meets the requirements for a stand-alone contingency measure, we were not making any determination at that time as to whether the individual contingency measure is sufficient in itself for San Diego County to fully comply with the contingency measures requirements under CAA sections 172(c)(9) and 182(c)(9).[176]

3. The EPA's Review of the State's Submission

Sections 172(c)(9) and 182(c)(9) require contingency measures to address potential failure to achieve RFP milestones or failure to attain the NAAQS by the applicable attainment date. The 2020 Plan was prepared and submitted following the *Bahr* decision and, thus, does not rely solely on surplus emissions reductions from already-implemented measures to demonstrate compliance with the contingency measures requirements, but rather, anticipated the revision of a District rule to include a specific contingency provision that would be designed to be both prospective and conditional. Since the 2020 Plan was submitted, the District has fulfilled the commitment in the 2020 Plan that the District amend the District's architectural coatings rule to include contingency provisions, and the EPA has approved the amended rule as a stand-alone contingency measure.

The 2020 Plan was, however, prepared and submitted prior to the *AIR* decision and relies on the surplus emissions reductions from already-implemented measures, not as a contingency measure per se, but as justification for adopting a contingency measure that would provide far less than the EPA's recommended amount of emissions reductions to meet the contingency measures requirements (*i.e.,* one year's worth of RFP). In doing so, the 2020 Plan takes an approach to meeting the contingency measures requirements that is essentially the same as the approach that was rejected in the *AIR* decision. Also, earlier this year, the EPA has published new draft guidance addressing the contingency measures requirements. The principal differences between the Draft Revised Contingency Measure Guidance and existing guidance on contingency measures relate to the EPA's recommendations concerning the specific amount of emission reductions that implementation of contingency measures should achieve, and the timing for when the emissions reductions from the contingency measures should occur.

In light of the change in circumstances arising from the *AIR* decision and the EPA's Draft Revised Contingency Measure Guidance, we are deferring action on the contingency measures portion of the 2020 Plan at the present time to provide additional time for CARB and the District to supplement the contingency measures portion of the 2020 Plan with additional contingency measures and a reasoned justification (if the contingency measures do not provide for the amount of reductions recommended by the EPA), as needed, to meet the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9).

G. Motor Vehicle Emissions Budgets for Transportation Conformity

1. Statutory and Regulatory Requirements

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) cause or contribute to violations of a NAAQS; (2) worsen the severity of an existing violation; or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, the FHWA, and the FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets contained in all control strategy SIPs. Motor vehicle emissions budgets are generally established for specific years and specific pollutants or precursors. Ozone plans should identify motor vehicle emissions budgets for on-road emissions of ozone precursors (NO_X and VOC) in the area for each RFP milestone year and, if the plan demonstrates attainment, the attainment year.[177]

For motor vehicle emissions budgets to be approvable, they must meet, at a minimum, the EPA's adequacy criteria

[172] 2020 Plan, Attachment O, p. O–1.

[173] The percentages are based on one year's worth of RFP, which is 3 percent of the 2011 VOC baseline emissions.

[174] 2020 Plan, Attachment O, p. O–7.

[175] 87 FR 78544 (December 22, 2022).

[176] Id.

[177] 40 CFR 93.102(b)(2)(i).

at 40 CFR 93.118(e)(4). To meet these requirements, the motor vehicle emissions budgets must be consistent with the attainment and RFP requirements and reflect all motor vehicle control measures contained in the attainment and RFP demonstrations.[178]

The EPA's process for determining adequacy of a transportation budget consists of three basic steps: (1) providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the motor vehicle emissions budgets during a public comment period; and, (3) making a finding of adequacy or inadequacy.[179]

2. Summary of the State's Submission

The 2020 Plan includes motor vehicle emissions budgets for both the 2008 and the 2015 ozone NAAQS. For the 2008 ozone NAAQS, the 2020 Plan provides for motor vehicle emissions budgets for 2020 and 2023 RFP milestone years, and a 2026 attainment year. For the 2015 ozone NAAQS, the plan provides for motor vehicle emissions budgets for 2023, 2026 and 2029 RFP milestone years and the 2032 attainment year.

The motor vehicle emissions budgets in the 2020 Plan were calculated for an average summer day using EMFAC2017, the version of CARB's EMFAC model approved by the EPA for estimating emissions from on-road vehicles operating in California at the time the 2020 Plan was developed.[180] The motor vehicle emissions budgets in the 2020 Plan reflect the transportation activity data provided by SANDAG including updated VMT and speed distribution data developed for the 2019 Federal Regional Transportation Plan.[181] The motor vehicle emissions budgets also reflect an upward adjustment to account for the EPA's SAFE 1 action [182] and are rounded up to the nearest tenth of a ton per day. The 2008 and 2015 ozone NAAQS motor vehicle emissions budgets for NO_X and VOC in the 2020 Plan for the San Diego County area are shown in Table 15 and Table 16 of this document, respectively.

TABLE 15—MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 2008 OZONE NAAQS IN THE SAN DIEGO COUNTY AREA

[Summer planning inventory, tpd]

Budget year	VOC	NO_X
2020	16.3	28.1
2023	13.6	19.3
2026	12.1	17.3

Source: 2020 Plan, Table 3–1.

TABLE 16—MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 2015 OZONE NAAQS IN THE SAN DIEGO COUNTY AREA

[Summer planning inventory, tpd]

Budget year	VOC	NO_X
2023	13.6	19.3
2026	12.1	17.3
2029	11.0	15.9
2032	10.0	15.1

Source: 2020 Plan, Table 4–1.

3. The EPA's Review of the State's Submission

The EPA previously found the motor vehicle emissions budgets in the 2020 Plan to be adequate, using our adequacy criteria in 40 CFR 93.118(e)(4) and (5).[183] On June 4, 2021, the EPA announced the availability of the 2020 Plan and related motor vehicle emissions budgets on the EPA's transportation conformity website, requesting comments by July 6, 2021. The EPA received no comments from the public. By letter dated September 21, 2021, the EPA determined the 2020, 2023, 2026 motor vehicle emissions budgets for the 2008 ozone NAAQS and the 2023, 2026, 2029 and 2032 motor vehicle emissions budgets for the 2015 ozone NAAQS were adequate for transportation conformity purposes.[184] On October 4, 2021, the notice of adequacy was published in the **Federal Register**.[185] Since the effective date of our adequacy finding, October 19, 2021, the U.S. Department of Transportation and the applicable metropolitan transportation organization, SANDAG, have been using the adequate motor vehicle emissions budgets for transportation conformity determinations for the area. The EPA is not required under its transportation conformity rule to find motor vehicle emissions budgets adequate prior to proposing approval of them, but in this instance, we have completed the adequacy review of these motor vehicle emissions budgets prior to our proposed action on the 2020 Plan.

The EPA is proposing to approve the motor vehicle emissions budgets the 2020 Plan for transportation conformity purposes. The EPA has determined through its review of the 2020 Plan that the motor vehicle emissions budgets are consistent with emissions control measures in the SIP and the RFP and attainment demonstrations for the 2008 ozone NAAQS and the 2015 ozone NAAQS. We note that the on-road motor vehicle emissions estimates used for the RFP and attainment demonstrations in the 2020 Plan are based on

[178] 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on motor vehicle emissions budgets, please visit our transportation conformity website at: *https://www.epa.gov/state-and-local-transportation.*

[179] 40 CFR 93.118.

[180] The EPA approved the use of EMFAC2017 for use in SIP development and transportation conformity at 84 FR 41717 (August 15, 2019).

[181] 2020 Plan, endnote 130. SANDAG, *San Diego Forward: The 2019 Federal Regional Transportation Plan* (October 2019).

[182] 84 FR 51310 (September 27, 2019).

[183] The EPA Office of Transportation and Air Quality (OTAQ) maintains a website that lists motor vehicle emissions budgets we are reviewing or have reviewed for adequacy. See our OTAQ adequacy review web page: *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity.*

[184] Letter from Elizabeth J. Adams, Air and Radiation Division Director, EPA Region IX to Richard Corey, Executive Officer, CARB, dated September 21, 2021.

[185] 86 FR 54692, effective October 19, 2021.

transportation activity data developed for SANDAG's 2018 Regional Transportation Improvement Program whereas the motor vehicle emissions budgets are based on updated VMT and speed distribution data from SANDAG's 2019 Regional Transportation Plan, and thus the on-road motor vehicle estimates are not exactly the same as the corresponding motor vehicle emissions budgets. However, we have compared the on-road motor vehicle emissions used for the RFP and attainment demonstrations with the motor vehicle emissions budgets and find that the latter are numerically the same or slightly lower (by 0.1 to 0.4 tpd) for both VOC and NO_X than the corresponding estimates used for the RFP and attainment demonstrations. Thus, the motor vehicle emissions budgets are conservative in that they reflect slightly less vehicle activity than the level of such activity assumed for the RFP and attainment demonstrations that we are proposing to approve in this document.

For the reasons discussed in Sections III.C and III.D of this document, we are proposing to approve the RFP and attainment demonstrations in the 2020 Plan for the 2008 and 2015 ozone NAAQS. The motor vehicle emissions budgets, as listed in Tables 15 and 16 of this document, are consistent with the RFP and attainment demonstrations, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements, including the adequacy criteria in 40 CFR 93.118(e)(4). For these reasons, the EPA proposes to approve the motor vehicle emissions budgets in the 2020 Plan for years 2020, 2023, and 2026 for the 2008 ozone NAAQS (and shown in Table 15 of this document), as well as the motor vehicle emissions budgets in the 2020 Plan for years 2023, 2026, 2029 and 2032 (shown in Table 16 of this document), for the 2015 ozone NAAQS.

H. General Conformity Budgets

1. Statutory and Regulatory Requirements

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) cause or contribute to violations of a NAAQS; (2) worsen the severity of an existing violation; or (3) delay timely attainment of any NAAQS or any interim milestone.

Section 176(c)(4) of the CAA establishes the framework for general conformity. The EPA first promulgated general conformity regulations in November 1993.[186] In 2006, 2010, and again in 2016, the EPA revised the general conformity regulations.[187] The general conformity regulations ensure that federal actions not covered by the transportation conformity rule will not interfere with the SIP and encourage consultation between the federal agency and the state or local air pollution control agencies before or during the environmental review process, as well as public participation (*e.g.,* notification of and access to federal agency conformity determinations and review of individual federal actions). In San Diego County, federal actions not covered by the transportation conformity rule are subject to the general conformity requirements in District Rule 1501 (''Conformity of General Federal Actions'') [188] and in 40 CFR part 93, subpart B, to the extent the requirements in 40 CFR part 93, subpart B are not contained in District Rule 1501.[189]

The general conformity regulations in 40 CFR part 93, subpart B provide criteria and procedures for federal agencies to follow in determining general conformity for federal actions. The applicability analysis under 40 CFR 93.153 is used to find if a federal action requires a conformity determination for a specific pollutant. If a conformity determination is needed, federal agencies can use one of several methods to show that the federal action conforms to the SIP. In an area for which the EPA has not approved a revision to the relevant SIP since the area was designated or reclassified, a federal action may be shown to ''conform'' by demonstrating there will be no net increase in emissions in the nonattainment or maintenance area from the federal action. In an area with an approved SIP revision, conformity to the applicable SIP can be demonstrated in one of several ways. For actions where the direct and indirect emissions exceed the rates in 40 CFR 93.153(b), the federal action can include mitigation measures to offset the emissions increases from the federal action or can show that the action will conform by meeting any of the following requirements:

- showing that the net emissions increases caused by an action are included in the SIP;
- documenting that the state agrees to include the emissions increases in the SIP;
- offsetting the action's emissions in the same or nearby area of equal or greater classification; or
- providing an air quality modeling demonstration in some circumstances.

The general conformity regulations at 40 CFR 93.161 allow state and local air quality agencies working with federal agencies with large facilities (*e.g.,* commercial airports, ports, and large military bases) that are subject to the general conformity regulations to develop and adopt an emissions budget for those facilities in order to facilitate future conformity determinations. Such a budget, referred to as a facility-wide emissions budget, may be used by federal agencies to demonstrate conformity as long as the total facility-wide budget level identified in the SIP is not exceeded.

A state or local agency responsible for implementing and enforcing the SIP can develop and adopt an emissions budget to be used for demonstrating conformity under 40 CFR 93.158(a)(1) so long as the budget meets certain criteria listed in 40 CFR 93.161(a). The requirements include: (1) the facility-wide budget must be for a set time period; (2) the budget must cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance; (3) the budgets must be specific about what can be emitted on an annual or seasonal basis; (4) the emissions from the facility along with all other emissions in the area must not exceed the total SIP emissions budget for the nonattainment or maintenance area; (5) specific measures must be included to ensure compliance with the facility-wide budget, such as periodic reporting requirements or compliance demonstrations when the federal agency is taking an action that would otherwise require a conformity determination; (6) the budget must be submitted to the EPA as a SIP revision; and (7) the SIP revision must be approved by the EPA. Having or using a facility-wide emissions budget does not preclude a federal agency from demonstrating conformity in any other manner allowed by the conformity rule.

Once approved by the EPA, total direct and indirect emissions from federal actions in conjunction with all other emissions subject to general conformity from the facility that do not exceed the facility-wide budget are ''presumed to conform'' to the SIP and

[186] 40 CFR part 51, subpart W, and 40 CFR part 93, subpart B.

[187] 71 FR 40420 (July 17, 2006); 75 FR 17254 (April 5, 2010); and 81 FR 58010, 58162 (August 24, 2016).

[188] SDCAPCD Rule 1501 (''Conformity of General Federal Actions''), approved at 64 FR 19916 (April 23, 1999).

[189] 40 CFR 93.151.

do not require a conformity analysis.[190] However, if the total direct and indirect emissions from the federal actions in conjunction with the other emissions subject to general conformity from the facility exceed the budget, the action must be evaluated for conformity.[191]

2. Summary of the State's Submission

General conformity requirements are addressed in the 2020 Plan in Section 2.1.3, ''Emissions Budgets.'' The 2020 Plan includes facility-wide emissions budgets (facility-wide budgets) that allow for increments of growth for military and airport facilities in the area. Further information supporting the military facility-wide budgets is included in the 2020 Plan's Attachment B, ''Planned Military Projects Subject to General Conformity''; further information supporting airport facility-wide budgets is included in Attachment C, ''Planned San Diego International Airport Projects Subject to General Conformity.''

The EPA has reviewed facility-wide budgets for military facilities in San Diego County in the past, prior to the 2010 revisions to the EPA's general conformity regulations that expressly authorized such budgets. In 2003, the EPA proposed to approve the San Diego County redesignation request and maintenance plan (RRMP) for the 1979 1-hour ozone NAAQS.[192] We approved the RRMP later that year, redesignating the area to attainment for the 1-hour ozone NAAQS and approving a ten-year maintenance plan for the area.[193] Although our final action did not approve facility-wide budgets explicitly, expected growth of military facility emissions in the San Diego County area were included in the area's RRMP. In our proposed approval of the RRMP, we indicated that the ''military growth [general] conformity increment is 11.4 tpd NO_X in 2005, 2010, and 2014,'' that is, over the ten-year period of the maintenance plan.[194] Likewise, the EPA approved the San Diego County RRMP for the 1997 ozone NAAQS, which included a military growth increment for years 2015, 2020 and 2025.[195]

In 2018, for the 2020 Plan, the Department of the Navy (DoN) and United States Marine Corps (USMC) developed updated projections of future annual emissions increases and decreases from anticipated military actions in San Diego County from 2018 through 2037.[196] NO_X was estimated to increase by 8.34 tpd and VOC was expected to increase by 0.86 tpd from 2018 through 2037.[197] Previously, the DoN and USMC had estimated emissions would increase by 5.91 tpd NO_X and 1.08 tpd VOC between 2011 and 2035.[198] For the 2020 Plan, the District conservatively took the higher of both pairs of numbers and, again, conservatively assumed that the entire anticipated increase through 2037 would occur in 2018. CARB incorporated that growth increment into the 2019 CARB CEPAM emissions inventories (Version 1.00) that are used to develop the RFP and attainment demonstrations in the 2020 Plan.

Specifically, the District and CARB incorporated a total growth projection of 8.34 tpd of NO_X and 1.08 tpd of VOC emissions into the 2020 Plan and related RFP demonstrations and photochemical modeling for the attainment demonstrations. The modeling analysis CARB performed for the 2020 Plan indicates that the growth in military facility-related emissions is not expected to cause additional ozone violations.[199]

In Section 2.1.3.2 of the 2020 Plan, the District also accommodates facility-wide budgets (in the form of growth increments) for SDIA in San Diego County. The San Diego County Regional Airport Authority (Airport Authority) developed an emissions inventory for SDIA that the District includes in the 2020 Plan as Attachment C. The SDIA emissions inventory includes emissions increases anticipated to occur at the airport from 2012 through 2040. As with the military growth increment, the District conservatively assumed that all emissions increases at SDIA would occur in 2018 and CARB included those emissions in their modeling.

3. The EPA's Review of the State's Submission

The 2020 Plan's facility-wide budgets (*i.e.,* increments of growth) are included in Table 17 of this document for both the military and for SDIA expected emissions increases (hereafter, the ''facilities''). At these levels of growth, CARB air quality modeling predicts that there will not be an increase in ozone exceedances.[200] These budgets represent emissions that are in addition to the baseline emissions projections in the 2020 Plan and that are built into the 2020 Plan as separate line items in the emissions inventories used for the RFP and attainment demonstrations. The purpose of the budgets is to accommodate anticipated federal actions by the military or by the federal agencies that permit, fund or approve actions at SDIA that would cause emissions increases greater than de minimis levels under the general conformity regulations. The de minimis level used to determine applicability of the general conformity requirements to federal actions in San Diego County is 25 tons per year of VOC or NO_X based on the area's Severe classification for the 2008 and 2015 ozone NAAQS.[201]

TABLE 17—FACILITY-WIDE GENERAL CONFORMITY BUDGETS (INCREMENTS OF GROWTH) FOR THE DEPARTMENT OF THE NAVY AND UNITED STATES MARINE CORPS, AND FOR THE SAN DIEGO INTERNATIONAL AIRPORT IN SAN DIEGO COUNTY

[Summer planning inventory, tpd]

Facility	VOC	NO_X
DoN and USMC	1.08	8.34
SDIA	0.141	1.756

Source: 2020 Plan, pp. 18 and 19.

[190] 40 CFR 93.161(c).

[191] 40 CFR 93.161(d).

[192] 68 FR 13653 (March 20, 2003).

[193] 68 FR 37976 (June 26, 2003), effective July 28, 2003.

[194] 68 FR 13653, 13654.

[195] 78 FR 17902, at 17912 (March 25, 2013) (proposed approval of San Diego County RRMP for the 1997 ozone NAAQS); finalized at 78 FR 33230 (June 4, 2013).

[196] DoN and USMC report to SDCAPCD, ''Department of Navy 2017 Mobile Source Baseline and Emissions Growth Increment Request for Submittal to the San Diego Air Pollution Control District,'' Naval Facilities Engineering Command Southwest, San Diego, California, December 2018.

[197] 2020 Plan, Table B–2.

[198] 2020 Plan, Table B–1.

[199] 2020 Plan, p. 18.

[200] 2020 Plan, p. 19.

[201] District Rule 1501, section 1551.853(b)(1).

The EPA reviewed the facility-wide budgets (*i.e.,* increments of growth) for the facilities using the seven criteria listed for facility-wide budgets in 40 CFR 93.161(a). Criterion 1 is that the facility-wide budgets must be for a set time period. This criterion is satisfied by the duration of the growth projected by the military (out to 2037) and by the Airport Authority (out to 2040).

Criterion 2 is that the facility-wide budgets must cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance. This criterion is satisfied because the area is designated nonattainment for the 2008 and the 2015 ozone NAAQS and ozone's precursors are VOC and NO_X. Both precursors are addressed in the facility-wide budgets included in the 2020 Plan for the facilities, presented in Table 17 of this document. Criterion 3 is likewise satisfied in that it requires that facility-wide budgets include specific quantities allowed to be emitted on an annual or seasonal basis. Table 17 of this document includes specific quantities allowed to be emitted by the facilities. Criterion 4 is that the emissions from the facilities along with all other emissions in the area will not exceed the emission budget for the area. This criterion will be satisfied if the EPA finalizes the proposed approval of the RFP and attainment demonstrations in the 2020 Plan for the 2008 and 2015 ozone NAAQS because the 2020 Plan includes the facility-wide budgets and all other emissions in the area in the future-year emissions projections used for the RFP and attainment demonstrations.[202]

Criterion 5 is that there must be specific measures to ensure compliance with the budget, such as periodic reporting requirements or a compliance demonstration when the federal agency is taking an action that would otherwise require a general conformity determination. The District requested that the military and San Diego Regional Airport Authority each provide a written letter of commitment to track compliance with the facility-wide budgets and to make periodic reports to the District demonstrating compliance when they are taking actions that would otherwise require a general conformity determination. The requested letters of commitment have been provided to the District.[203]

Criterion 6 is that the facility-wide budgets must be submitted to the EPA as a SIP revision. The 2020 Plan includes the facility-wide budgets shown in Table 17 of this document. The seventh and last criterion is that the SIP revision must be approved by the EPA. For the reasons stated in this section of this document, we propose to approve the general conformity budgets included in the 2020 Plan. If the EPA finalizes this action as proposed, criterion 7 will be satisfied.

I. Other Clean Air Act Requirements Applicable to Severe Ozone Nonattainment Areas

In addition to the SIP requirements discussed in Sections III.A—III.H, of this document, the CAA includes certain other SIP requirements applicable to Severe ozone nonattainment areas, such as the San Diego County area. In Section III.I., we identify these other requirements and evaluate the compliance by the State and District with respect to them for the San Diego County area.

1. Enhanced Vehicle Inspection and Maintenance Programs

Section 182(b)(4) of the CAA requires states with ozone nonattainment areas classified under subpart 2 as Moderate to submit SIP revisions that provide for the implementation of a ''Basic'' vehicle inspection and maintenance (I/M) program in those areas. Section 182(c)(3) of the CAA requires states with ozone nonattainment areas classified under subpart 2 as Serious or above to submit SIP revisions that provide for the implementation of an ''Enhanced'' I/M program in certain urbanized portions of those areas.[204] As a Severe ozone nonattainment area for the 2008 and 2015 ozone NAAQS, the State of California must implement an Enhanced I/M program in the urbanized portions of the San Diego County area.

As a general matter, Basic and Enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions and requiring them to be repaired. An Enhanced I/M program covers more of the vehicles in operation, employs inspection methods that are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The EPA has established specific requirements for Basic and Enhanced I/M programs in 40 CFR part 51, subpart S (''The EPA's I/M regulation''). The EPA's I/M regulation establishes minimum performance standards for Basic and Enhanced I/M programs as well as requirements for certain elements of the programs, including, among other elements, test frequency, vehicle coverage, test procedures and standards, stations and inspectors, and data collection, analysis and reporting.[205]

Under 40 CFR 51.351(i), areas required to implement an Enhanced I/M program because of being designated and classified under the 8-hour ozone standard must meet or exceed the VOC and NO_X emissions reductions (*i.e.,* performance standard) achieved by the EPA's model program for Enhanced I/M. An I/M performance standard is a collection of program design elements that defines a benchmark program to which a state's proposed program is compared in terms of its potential to reduce emissions of the ozone precursors, VOC and NO_X. The performance standard is expressed as emission levels in area-wide average grams per mile (grams/mile), achieved from on-road motor vehicles as a result of a specified model I/M program design. The emissions levels achieved by the state's program design must be calculated using the most current version of the EPA mobile source emissions factor model and must meet or exceed the emissions reductions achieved by the performance standard program both in operation and for SIP approval. The current version of the EPA mobile source emissions factor model at the time of CARB's evaluation of the California I/M program for compliance with 40 CFR 51.351(i) was the Motor Vehicle Emission Simulator model, version 3 (MOVES3).[206]

For subject ozone nonattainment areas, the performance standard must be met for both VOC and NO_X unless a NO_X waiver has been approved for the area. Enhanced I/M program areas must be shown to obtain the same or lower emissions levels as the model program described in section 51.351(i) to within $+/-0.02$ grams/mile and must demonstrate through modeling the ability to maintain this level of

[202] A detailed description of how the facility-based budgets were included in the future-year projections used for the RFP and attainment demonstrations is contained in an email dated May 22, 2023, from Nick Cormier, SDCAPCD, to John J. Kelly, EPA Region IX.

[203] Letter dated July 31, 2023, from Ted Anasis, Manager, Airport Planning, SDIA, to Nick Cormier, SDCAPCD, and letter dated August 16, 2023, from J.C. Golumbfskie-Jones, Fleet Environmental Director, Commander Navy Region Southwest, DoN, to Paula Forbis, Air Pollution Control Officer, SDCAPCD.

[204] The CAA I/M SIP requirements apply to Moderate and above nonattainment areas for the 2008 and 2015 ozone NAAQS pursuant to 40 CFR 51.1102 (for the 2008 ozone NAAQS) and 40 CFR 51.1302 (for the 2015 ozone NAAQS).

[205] 40 CFR part 51, subpart S, sections 350–373.

[206] 86 FR 1106 (January 7, 2021).

emissions reduction (or better) through their attainment deadline for the applicable NAAQS. See 40 CFR 51.351(i)(13).

The California Bureau of Automotive Repair (BAR) implements the I/M program in California. BAR was required to implement an Enhanced I/M program in the urbanized portions of San Diego County due to the County's classification as a Serious nonattainment area for the 1-hour ozone NAAQS.[207] In 1997, the EPA issued an interim approval of the program as meeting the Enhanced I/M requirements for the 1-hour ozone NAAQS in California.[208] Currently, BAR implements an Enhanced I/M program in the urbanized areas of the County, a Basic I/M program in certain parts of central San Diego County, and a change of ownership I/M program in the eastern half of the County.[209]

The EPA's most recent approval of California's I/M program occurred in 2010, and in that action, the EPA approved the program as meeting the applicable I/M requirements for the various nonattainment areas in the State.[210] However, at that time, because San Diego County had been redesignated to attainment for the 1-hour ozone NAAQS and had not yet been classified for the 1997 ozone NAAQS, San Diego County was no longer subject to the Enhanced I/M requirement, and the EPA did not review the program as it applies to San Diego County for compliance with Enhanced I/M program requirements.[211]

The statutory and regulatory foundation for the approved California I/M program is set forth in California Health & Safety Code (CH&SC), Division 26, Part 5, Chapter 5 (Motor Vehicle Inspection Program), Articles 1 through 9 and in Title 16 of the California Code of Regulations (16 CCR), Division 33, Chapter 1, Article 5.5 (Motor Vehicle Inspection Program).[212] Additional I/M-related statutory and regulatory provisions in the California SIP include CH&SC section 39032.5; California Business and Professions Code sections 9886 and 9886.1–9886.4; California Vehicle Code sections 4000.1, 4000.2, 4000.3 and 4000.6; and 16 CCR sections 3303.1, 3303.2, 3392.1–3392.6 and 3394.1–3394.6.[213]

For the 2020 San Diego County Ozone SIP, the District reviewed the existing I/M program as implemented in the San Diego County area and concluded, in light of the EPA's approval of the program with respect to the 1-hour and 1997 ozone NAAQS, that the area met all applicable I/M requirements for the 2008 and 2015 ozone NAAQS.[214] For this proposed action, we reviewed the existing I/M program and confirmed that the State implements and enforces an Enhanced I/M program in the urbanized areas of San Diego County as required in Severe ozone nonattainment areas.[215] We also note that, since the EPA's most recent approval of the California I/M program in 2010, the State has taken steps to improve the effectiveness of the Smog Check program by requiring the BAR to direct older vehicles to high-performing auto technicians and test stations for inspection and certification.[216] Further changes to State law have required the BAR to implement an updated protocol for testing 2000 and newer model-year vehicles that collects more complete On-Board Diagnostic (OBD) information than had been collected under the existing protocol.[217] The State publishes an annual report summarizing the performance of the California smog check program.[218] The State also publishes periodic reports to the Legislature on the resources allocated to smog check program administration and enforcement.[219]

Additionally, in April 2023, in response to the EPA's clarification of I/M SIP requirements for areas designated nonattainment for the eight-hour ozone NAAQS,[220] CARB supplemented the motor vehicle I/M portion of the 2020 Plan with the submission of the Smog Check Certification as a revision to the California SIP. CARB's Smog Check Certification includes Enhanced I/M performance standard evaluations for the urbanized areas within certain ozone nonattainment areas, including the San Diego County area, for the 2008 and 2015 ozone NAAQS. For the Smog Check Certification, CARB relied upon the EPA's MOVES3 emissions model and the EPA's most recent guidance for I/M performance standard modeling[221] in preparing the Enhanced I/M performance standard evaluations for the various nonattainment areas addressed in the Smog Check Certification.

For the San Diego County area, the Smog Check Certification presents a comparison of July weekday emissions rates (in grams/mile) for VOC and NO_X based on the existing California smog check program and the Enhanced I/M model program benchmark. The model program benchmark ultimately includes a 0.02 grams/mile buffer. The analysis was performed for the years 2017, 2026 and 2032. Table 18 of this document summarizes the results of the performance standard modeling.[222]

[207] In 1995, the EPA corrected the design value for San Diego County used to establish San Diego County's original nonattainment classification for the 1-hour ozone NAAQS and changed the classification from Severe to Serious. 60 FR 3771 (January 19, 1995).

[208] 62 FR 1150 (January 8, 1997); see also 74 FR 41818, at 41820 (August 19, 2009).

[209] California Bureau of Automotive Repair, Smog Check Reference Guide, revised August 2012, appendix A.

[210] 75 FR 38023 (July 1, 2010).

[211] The EPA did not classify San Diego County for the 1997 ozone NAAQS until 2012, and, in that rulemaking, classified San Diego County as ''Subpart 2/Moderate.'' 77 FR 28424 (May 14, 2012).

[212] 75 FR 38023, 38025–38026 (July 1, 2010).

[213] Id.

[214] 2020 Plan, Section 3.1, pp. 33–34 (2008 ozone NAAQS) and Section 4.1, pp. 53–54 (2015 ozone NAAQS).

[215] CH&SC section 44003(a)(1) provides: ''An enhanced motor vehicle inspection and maintenance program is established in each urbanized area of the state, any part of which is classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm, and in other areas of the state as provided in this chapter.'' In addition, we used BAR's Smog Check Program Area Lookup tool and a list of zip codes for San Diego County to confirm the implementation of the Enhanced I/M program in the urbanized areas of San Diego County.

[216] CARB, Progress Report on Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions (Release Date: March 29, 2011), Table 1.

[217] CARB, Revised Proposed 2016 State Strategy for the State Implementation Plan (March 7, 2017), pp. 52–53.

[218] The most recent performance report is BAR's Smog Check Performance Report 2023, July 1, 2023.

[219] The most recent periodic report is BAR's Sunset Review Report 2022: presented to the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions.

[220] See 87 FR 21842, at 21853 (April 13, 2022) (proposed determinations and reclassifications for Marginal areas for 2015 ozone NAAQS), finalized at 87 FR 60897 (October 7, 2022).

[221] EPA, Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model, EPA–420–B–22–034, October 2022.

[222] Smog Check Certification, Table 8, p. 20.

TABLE 18—SUMMARY OF JULY WEEKDAY EMISSION RATES FOR SAN DIEGO COUNTY

Scenario	NO_X	VOC
Calendar Year 2017 July Weekday Emission Rates (grams/mile)		
CA Existing Program	0.2604	0.2292
Enhanced Performance Standard Benchmark	0.2831	0.2357
Enhanced Performance Standard Benchmark with 0.02 g/mile Buffer	0.3031	0.2557
Calendar Year 2026 July Weekday Emission Rates (grams/mile)		
CA Existing Program	0.0863	0.1284
Enhanced Performance Standard Benchmark	0.0902	0.1255
Enhanced Performance Standard Benchmark with 0.02 g/mile Buffer	0.1102	0.1455
Calendar Year 2032 July Weekday Emission Rates (grams/mile)		
CA Existing Program	0.0374	0.0960
Enhanced Performance Standard Benchmark	0.0367	0.0921
Enhanced Performance Standard Benchmark with 0.02 g/mile Buffer	0.0567	0.1121

Source: CARB, Smog Check Certification, Table 8.

For both VOC and NO_X in all analysis years, CARB's MOVES3 modeling results indicate that the California Enhanced I/M program meets or exceeds the federal Enhanced I/M performance standard benchmark program with the 0.02 g/mile buffer in San Diego County.

We find that CARB used appropriate methods and input data to perform the I/M performance standard evaluations for San Diego County, analyzed appropriate years consistent with 40 CFR 351(i)(13), and included sufficient documentation to support the results. We also find that, based on our review of the District's and CARB's certification and the results presented in the Smog Check Certification, the California smog check program meets the Enhanced I/M program SIP requirements under CAA section 182(c)(3), 40 CFR 51.1102 and 40 CFR 51.1302 for the 2008 and 2015 ozone NAAQS in the San Diego County area. Therefore, the EPA proposes to approve the I/M portion of the 2020 Plan, as supplemented by the San Diego County portion of the Smog Check Certification, as revisions to the California SIP.

2. New Source Review Rules

Section 182(a)(2)(C) of the CAA requires states to submit SIP revisions containing permit programs for each of their ozone nonattainment areas. The SIP revisions are to include requirements for permits in accordance with CAA sections 172(c)(5) and 173 for the construction and operation of each new or modified major stationary source for VOC or NO_X anywhere in the nonattainment area.[223] The 2008 Ozone SRR and 2015 Ozone SRR include provisions and guidance for nonattainment new source review (NSR) programs.[224]

In the 2020 San Diego County Ozone SIP, the District certifies compliance with NSR requirements for the 2008 and 2015 ozone NAAQS through amendments to the District's NSR rules (Rules 20.1–20.4) in June 2019.[225] In 2020, the EPA issued a final limited approval/limited disapproval of Rule 20.1 and a full approval of Rules 20.2, 20.3 and 20.4.[226] In that rulemaking, we found that the rules, with one exception not directly related to the ozone NAAQS, met the applicable NSR requirements for San Diego County as a Serious nonattainment area for the 2008 ozone NAAQS and as a Moderate nonattainment area for the 2015 ozone NAAQS.

Since our NSR rulemaking in 2020, the San Diego County area has been reclassified to Severe for the 2008 and 2015 ozone NAAQS. However, the approved NSR rules already include NO_X and VOC applicability thresholds and offset ratios applicable to Severe ozone nonattainment areas that automatically applied upon the July 2, 2021 effective date of the area's reclassification to Severe.[227] In addition, in 2022, the EPA issued a final full approval of four amended District rules, including Rule 20.1.[228] In our 2022 rulemaking, we found that the submitted NSR rules satisfy the applicable NSR requirements for both the 2008 and 2015 ozone NAAQS.[229]

Given the recent approval of the NSR program as meeting the applicable NSR requirements for the two relevant ozone NAAQS, including the applicability of the Severe area applicability threshold and offset ratio, we propose to approve the NSR certification in the 2020 Plan that the EPA-approved District NSR rules comply with the applicable NSR requirements under CAA sections 172(c)(5), 173 and 182(a)(2)(C), and 40 CFR 51.1114 and 51.1314 for the San Diego County area for the 2008 and 2015 ozone NAAQS.

3. Clean Fuels Fleet Program

Sections 182(c)(4)(A) and 246 of the CAA require states to submit SIP revisions that establish a clean-fuel vehicle program for fleets (referred to herein as a Clean Fuels Fleets Program (CFFP)) in certain of their ozone nonattainment areas classified as Serious and above. The federal CFFP is specified in part C of title II of the CAA. Section 182(c)(4)(B) of the CAA allows states to opt out of the federal CFFP by submitting a SIP revision consisting of a program or programs that will result in at least equivalent long-term reductions in ozone precursors and toxic air emissions. The CFFP SIP requirement applies to the San Diego County area as an ozone nonattainment area with a 1980 population of 200,000 or more and classified as Severe for the 2008 and 2015 ozone NAAQS.[230]

[223] See also CAA section 182(d).

[224] 40 CFR 51.1114 and 80 FR 12264 (March 6, 2015) (2008 ozone NAAQS); and 40 CFR 51.1314 and 83 FR 62998 (December 6, 2018) (2015 ozone NAAQS).

[225] 2020 Plan, section 2.3, pp. 25–26.

[226] 85 FR 57727 (September 16, 2020).

[227] 86 FR 29522 (June 2, 2021).

[228] 87 FR 58729 (September 28, 2022).

[229] 87 FR 29105, at 29107 (May 12, 2022) (proposed approval of amended District NSR rules); finalized at 87 FR 58729 (September 28, 2022).

[230] See the definition of ''covered areas'' in CAA section 246(a)(2). The CFFP SIP requirement applies to the 2008 and 2015 ozone NAAQS pursuant to 40 CFR 51.1102 and 40 CFR 51.1302.

In 1994, CARB submitted a SIP revision to the EPA to opt out of the federal CFFP. The submittal included a demonstration that California's low-emissions vehicle program (now referred to as the low-emissions vehicle (LEV I) regulation) achieved emissions reductions at least as large as would be achieved by the federal program. The EPA approved the SIP revision to opt out of the federal program on August 27, 1999.[231] There have been no changes to the federal CFFP since the EPA approved the California SIP revision to opt out of the federal program, and thus, no corresponding changes to the SIP are required. In addition, California continues to implement its low-emissions vehicle program and has tightened the low-emissions vehicle emissions standards through adoption of the LEV II and LEV III regulations. The EPA approved the LEV II and LEV III regulations as part of the California SIP in 2016.[232]

In the 2020 San Diego County Ozone SIP, the District certified that, in light of the EPA's approval of the SIP revision to opt out of the federal program, the San Diego County area continues to meet the requirements of CAA sections 182(c)(4) and 246 for the 2008 and 2015 ozone NAAQS.[233] We agree with the District's conclusion and find that the California SIP revision to opt out of the federal program, as approved in 1999, continues to meet the requirements of CAA sections 182(c)(4) and 246, and 40 CFR 51.1102 and 51.1302, for the San Diego County area for the 2008 and 2015 ozone NAAQS. For that reason, we propose to approve the certification in the 2020 San Diego County Ozone SIP that the San Diego County area continues to meet the CFFP SIP requirements for the 2008 and 2015 ozone NAAQS.

4. Gasoline Vapor Recovery

Section 182(b)(3) of the CAA requires states to submit SIP revisions by November 15, 1992, that require owners or operators of gasoline dispensing systems to install and operate gasoline vehicle refueling vapor recovery (''Stage II'') systems in ozone nonattainment areas classified as Moderate and above. California's ozone nonattainment areas implemented Stage II vapor recovery well before the passage of the CAA Amendments of 1990.[234]

Section 202(a)(6) of the CAA requires the EPA to promulgate standards requiring motor vehicles to be equipped with onboard refueling vapor recovery (ORVR) systems. The EPA promulgated the first set of ORVR system regulations in 1994 for phased implementation by vehicle manufacturers, and since the end of 2006, essentially all new gasoline-powered light and medium-duty vehicles are ORVR-equipped.[235] Section 202(a)(6) also authorizes the EPA to waive the SIP requirement under CAA section 182(b)(3) for installation of Stage II vapor recovery systems after such time as the EPA determines that ORVR systems are in widespread use throughout the motor vehicle fleet. Effective May 16, 2012, the EPA waived the requirement of CAA section 182(b)(3) for Stage II vapor recovery systems in ozone nonattainment areas regardless of classification.[236] Thus, a SIP submittal meeting CAA section 182(b)(3) is not required for the 2008 ozone NAAQS or the 2015 ozone NAAQS.

While a SIP submittal meeting CAA section 182(b)(3) is not required for the 2008 or 2015 ozone NAAQS, under California state law (*i.e.,* Health and Safety Code section 41954), CARB is required to adopt procedures and performance standards for controlling gasoline emissions from gasoline marketing operations, including transfer and storage operations. State law also authorizes CARB, in cooperation with local air districts, to certify vapor recovery systems, to identify defective equipment and to develop test methods. CARB has adopted numerous revisions to its vapor recovery program regulations and continues to rely on its vapor recovery program to achieve emissions reductions in ozone nonattainment areas in California.

In the San Diego County area, the installation and operation of CARB-certified vapor recovery equipment is required and enforced by SDCAPCD Rule 61.4 (''Transfer of Volatile Organic Compounds into Vehicle Fuel Tanks''). This rule was most recently approved into the SIP on January 7, 2013.[237]

5. Enhanced Ambient Air Monitoring

Section 182(c)(1) of the CAA requires states to submit SIP revisions for all ozone nonattainment areas classified as Serious or above that contain measures to enhance and improve monitoring for ambient concentrations of ozone, NO_X, and VOC, and to improve monitoring of emissions of NO_X and VOC in those areas. The enhanced monitoring network for ozone is referred to as the photochemical assessment monitoring station (PAMS) network. The EPA promulgated final PAMS regulations on February 12, 1993.[238] San Diego County is subject to the CAA PAMS network SIP requirement as a Severe nonattainment area for the 2008 and 2015 ozone NAAQS pursuant to 40 CFR 51.1102 and 51.1302.

On November 10, 1993, CARB submitted to the EPA a SIP revision addressing the PAMS network for six ozone nonattainment areas, including San Diego County, to meet the enhanced monitoring requirements of CAA section 182(c)(1) and the PAMS regulations for the 1-hour ozone NAAQS. At the time, San Diego County was classified as a ''Severe-15'' ozone nonattainment area for the 1-hour ozone NAAQS but that classification was later corrected to be ''Serious.'' The EPA determined that the PAMS SIP revision met all applicable requirements for enhanced monitoring and approved the PAMS submittal into the California SIP.[239]

Prior to 2006, the EPA's ambient air monitoring regulations in 40 CFR part 58 (''Ambient Air Quality Surveillance'') set forth specific SIP requirements (see former 40 CFR 52.20). In 2006, the EPA significantly revised and reorganized 40 CFR part 58.[240] Under revised 40 CFR part 58, SIP revisions are no longer required; rather, compliance with EPA monitoring regulations is established through review of required annual monitoring network plans.[241] The 2008 Ozone SRR and 2015 Ozone SRR made no changes to these requirements.[242]

The most recent annual monitoring plan for San Diego County that the EPA has reviewed is the District's ''Annual Air Quality Monitoring Network Report 2021'' (2021 ANP).[243] The District's 2021 ANP describes the steps taken to address the requirements of section 182(c)(1), includes descriptions of the PAMS program and provides additional details about the PAMS network.[244] The

[231] 64 FR 46849 (August 27, 1999).

[232] 81 FR 39424 (June 16, 2016).

[233] 2020 San Diego County Ozone SIP, Section 3.1, pp. 33–34 and endnote 78 (2008 ozone NAAQS) and Section 4.1, pp. 53–54 and endnote 126 (2015 ozone NAAQS).

[234] General Preamble, 57 FR 13498, 13514 (April 16, 1992).

[235] 77 FR 28772, at 28774 (May 16, 2012).

[236] 40 CFR 51.126(b).

[237] 78 FR 897.

[238] 58 FR 8452 (February 12, 1993).

[239] 82 FR 45191 (September 28, 2017).

[240] 71 FR 61236 (October 17, 2006).

[241] 40 CFR 58.2(b) now provides that ''[t]he requirements pertaining to provisions for an air quality surveillance system in the SIP are contained in this part.''

[242] The 2008 and 2015 ozone SRRs address PAMS-related requirements. For the 2008 ozone NAAQS, see 80 FR 12264, at 12291 (March 6, 2015); for the 2015 ozone NAAQS, see 83 FR 62998, at 63008 (December 6, 2018).

[243] SDCAPCD, Annual Air Quality Monitoring Report 2021, submitted for EPA review on June 29, 2022.

[244] 2021 ANP, chapter 11 (''Photochemical Assessment Monitoring Stations (PAMS)''). Starting

Continued

EPA approved the District's current PAMS network as part of our approval of the District's ANP.[245]

The 2020 Plan certifies compliance with the CAA section 182(c)(1) enhanced ambient monitoring requirement for the 2008 ozone NAAQS and 2015 ozone NAAQS by reference to the area's approved PAMS SIP revision for the 1-hour ozone NAAQS.[246] We agree that the San Diego County area meets the CAA section 182(c)(1) enhanced ambient monitoring requirement for the 2008 and 2015 ozone NAAQS based on the District's compliance with the EPA's monitoring regulations in 40 CFR part 58 for PAMS networks. On that basis, we propose to approve the 2020 Plan's certification of compliance with the enhanced monitoring requirements for the 2008 and 2015 ozone NAAQS for the San Diego County area under CAA section 182(c)(1) and 40 CFR 51.1102 and 51.1302.

6. CAA Section 185 Fee Program

Sections 182(d)(3) and 185 of the CAA require that the SIP for each Severe and Extreme ozone nonattainment area provide that, if the area fails to attain by its applicable attainment date, each major stationary source of VOC and NO_X located in the area shall pay a fee to the state as a penalty for such failure for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. These requirements apply to the San Diego County area as a Severe nonattainment area for both the 2008 and the 2015 ozone NAAQS. States were required to submit to the EPA by July 20, 2022, a SIP revision that meets the requirements of CAA section 185 for the 2008 ozone NAAQS. The District adopted Rule 45 to meet those requirements and the state submitted it to the EPA on July 20, 2022. The EPA plans to take action on that submittal separately from this action. States are not yet required to submit a SIP revision that meets the requirements of CAA section 185 for the 2015 ozone NAAQS.[247]

7. Emissions Statement

Section 182(a)(3)(B)(i) of the Act requires states to submit a SIP revision requiring owners or operators of stationary sources of VOC or NO_X to provide the state with statements of actual emissions from such sources. Statements must be submitted at least every year and must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Section 182(a)(3)(B)(ii) of the Act allows states to waive the emissions statement requirement for any class or category of stationary sources that emit less than 25 tpy of VOC or NO_X, if the state provides an inventory of emissions from such class or category of sources as part of the base year or periodic inventories required under CAA sections 182(a)(1) and 182(a)(3)(A), based on the use of emissions factors established by the EPA or other methods acceptable to the EPA.

The preamble of the 2008 Ozone SRR states that if an area has a previously approved emissions statement rule for the 1997 ozone NAAQS or the 1-hour ozone NAAQS that covers all portions of the nonattainment area for the 2008 ozone NAAQS, such rule should be sufficient for purposes of the emissions statement requirement for the 2008 ozone NAAQS. The state should review the existing rule to ensure it is adequate and, if so, may rely on it to meet the emissions statement requirement for the 2008 ozone NAAQS.[248] The same approach was included in the 2015 Ozone SRR.[249] Where an existing emissions statement requirement is still adequate to meet the requirements of these rules, states can provide the rationale for that determination to the EPA in a written statement in the SIP to meet this requirement. States should identify the various requirements and how each is met by the existing emissions statement program. Where an emissions statement requirement is modified for any reason, states must provide the revision to the emissions statement as part of its SIP.

The 2020 Plan addresses compliance with the emissions statement requirement in CAA section 182(a)(3)(B) for the San Diego County area for the 2008 and 2015 ozone NAAQS in Section 2.2 (''Emissions Statement Rule Certification'') of the plan.[250] In Section 2.2 of the 2020 Plan, the District evaluates compliance with CAA section 182(a)(3)(B) by reference to District Rule 19.3 that, among other things, requires emissions reporting from stationary sources of NO_X and VOC greater than or equal to 5 tpy, as deemed appropriate by the District's Air Pollution Control Officer (APCO). In addition, the District reports emissions of VOC and NO_X from sources that emit less than 25 tpy via CARB's California Emission Inventory Development and Reporting System (CEIDARS). All sources with emissions of VOC or NO_X greater than or equal to 25 tpy must provide an emissions statement to the District. District Rule 19.3 applies throughout the San Diego County area. On April 6, 1993, the District adopted District Rule 19.3 to meet the requirements in CAA section 182(a)(3)(B). The District amended District Rule 19.3 on May 15, 1996, and the EPA approved the rule into the California SIP, effective May 8, 2000.[251]

In a separate action, the EPA approved the ''Emissions Statement Rule Certification'' portion of the 2020 Plan that certifies District Rule 19.3 as meeting the emissions statement requirement under CAA section 182(a)(3)(B) for the San Diego County area for the 2008 and 2015 ozone NAAQS.[252]

IV. Environmental Justice Considerations

This document proposes to approve certain SIP elements included in the 2020 Plan and the San Diego County area portion of the Smog Check Certification. Information on ozone and its relationship to negative health impacts can be found on the EPA's website.[253] We expect that this proposed action, once approved, will generally be neutral or contribute to reduced environmental and health impacts on all populations in the San Diego County area, including people of color and low-income populations in the area. At a minimum, the approved action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people. Lastly,

in 2007, the EPA's monitoring rules at 71 FR 61236 (October 17, 2006) required the submittal and EPA action on ANPs. SDCAPCD's 2021 ANP can be found in the docket for this action.

[245] Letter dated October 31, 2022, from Gwen Yoshimura, EPA Region IX to David Sodeman, Chief, Monitoring and Technical Services, SDCAPCD, approving the 2021 San Diego ANP with certain exceptions unrelated to the PAMS requirements.

[246] 2020 Plan, pp. 33–34 and endnote 80 (2008 ozone NAAQS) and pp. 53–54 and endnote 128 (2015 ozone NAAQS).

[247] See 40 CFR 51.1117 (2008 ozone NAAQS) and 51.1317 (2015 ozone NAAQS). The deadline for submittal to the EPA for the area's CAA section 185 SIP revision for the 2015 ozone NAAQS is August 3, 2028.

[248] See 80 FR 12264, at 12291 (March 6, 2015).

[249] See 83 FR 62998, at 63023 (December 6, 2018).

[250] 2020 Plan, at 23–25.

[251] 65 FR 12472 (March 9, 2000).

[252] 87 FR 45657 (July 29, 2022).

[253] Ozone National Ambient Air Quality Standards (NAAQS): *https://www.epa.gov/ground-level-ozone-pollution/ozone-national-ambient-air-quality-standards-naaqs;* Health Effects of Ozone Pollution: *https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution.*

although the District did not perform an environmental justice review specifically for the 2020 Plan, the District does implement the State's ''Community Air Protection Program'' in San Diego County.[254] This program identifies specific communities based on environmental, health and socioeconomic information in order to reduce their pollution exposure.

V. Proposed Action

For the reasons discussed in this document, under CAA section 110(k)(3), the EPA is proposing to approve all of the ''2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County,'' submitted on January 12, 2021, with two exceptions, and the San Diego County area I/M SIP revision for the 2008 and 2015 ozone NAAQS, *i.e.,* the San Diego County portion of the ''Smog Check Performance Standing Modeling and Certification,'' submitted on April 26, 2023. The portions of the 2020 Plan on that we are not proposing action are the portion addressing the emissions statement requirement, which we already approved in a separate rulemaking, and the portion addressing the contingency measures requirement, for which we are deferring action.[255]

More specifically, we are proposing approval of the following portions of the 2020 Plan, as supplemented by the Smog Check Certification, as meeting the following requirements:

- Base year emissions inventory element as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1115 for the 2008 ozone NAAQS, and 40 CFR 51.1315 for the 2015 ozone NAAQS;
- RACM demonstration element as meeting the requirements of CAA section 172(c)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1112(c) for the 2008 ozone NAAQS, and 40 CFR 51.1312(c) for the 2015 ozone NAAQS;
- Attainment demonstration element for the 2008 ozone NAAQS as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;
- Attainment demonstration element for the 2015 ozone NAAQS as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1308, and the related commitments by CARB (through CARB Resolution 20–29) to achieve an aggregate emissions reduction of 4 tpd of NO_X by 2032 in the San Diego County area and by the District (through District Resolution 20–166) to achieve emissions reductions of 1.7 tpd by 2032;
- ROP demonstration element as meeting the requirements of CAA section 182(b)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1110(a)(2) for the 2008 ozone NAAQS, and 40 CFR 51.1310(a)(2) for the 2015 ozone NAAQS;
- RFP demonstration element as meeting the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1110(a)(2)(i) and (ii) for the 2008 ozone NAAQS, and 40 CFR 51.1310(a)(2)(ii) for the 2015 ozone NAAQS;
- VMT emissions offset demonstration element as meeting the requirements of CAA section 182(d)(1)(A) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS;
- Motor vehicle emissions budgets for the 2020 and 2023 RFP milestone years and the 2026 attainment year (see Table 15) because they are consistent with the RFP and attainment demonstrations for the 2008 ozone NAAQS proposed for approval herein and meet the other criteria in 40 CFR 93.118(e)(4);
- Motor vehicle emissions budgets for the 2023, 2026 and 2029 RFP milestone years and the 2032 attainment year (see Table 16) because they are consistent with the RFP and attainment demonstrations for the 2015 ozone NAAQS proposed for approval herein and meet the other criteria in 40 CFR 93.118(e)(4);
- General conformity budgets (or growth increments, in this case) for the Department of the Navy and United States Marine Corps, and for the San Diego International Airport (see Table 17) as meeting the requirements of CAA section 176(c) and 40 CFR 93.161;
- Enhanced vehicle inspection and maintenance program element in the 2020 Plan, as supplemented by the San Diego County area portion of the Smog Check Certification, as meeting the requirements of CAA section 182(c)(3) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS;
- Clean fuels fleet program element as meeting the requirements of CAA sections 182(c)(4)(A) and 246 for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS;
- New Source Review program element as meeting the requirements of CAA sections 172(c)(5), 173 and 182(a)(2)(C) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1114 for the 2008 ozone NAAQS, and 40 CFR 51.1314 for the 2015 ozone NAAQS; and
- Enhanced monitoring element as meeting the requirements of CAA section 182(c)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action.

VI. 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 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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), 13563 (76 FR 3821, January 21, 2011) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[254] See email dated March 2, 2023, from Nick Cormier, SDCAPCD, to John J. Kelly, EPA, regarding environmental justice information on San Diego County communities. The State's Community Air Protection Program was created by passage of the State's Assembly Bill (AB) 617. At the time of the email, the District had developed a plan to address emissions of air pollutants in one community (Portside) that was identified by the program and another community (the ''International Border Community,'' that is, the San Ysidro-Otay Mesa area) had also been identified.

[255] Regarding other applicable requirements for the 2008 and 2015 ozone NAAQS in San Diego County, the EPA has previously approved the portion of the 2020 Plan that addresses the emissions statement requirement and will be taking action on the San Diego RACT submittal in separate rulemakings. See 87 FR 45657 (July 29, 2022) (approval of emissions statement certification); and 88 FR 57361(August 23, 2023) (final approval of District Rule 69.2.2), and 88 FR 48150 (July 26, 2023) (proposed approval of District Rule 69.2.1). A SIP revision for San Diego County addressing the penalty fee requirements under CAA sections 182(d)(3) and 185 for the 2008 ozone NAAQS was submitted by CARB to the EPA on July 20, 2022, and EPA will take action on the July 20, 2022 SIP revision in a separate rulemaking. The area's penalty fee SIP revision is not due for the 2015 ozone NAAQS until August 3, 2028.

- 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.

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 proposed action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Furthermore, 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 State 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. However, as described in Section IV (Environmental Justice Considerations) of this document, the District does participate in the State's environmental justice program. The EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of this proposed action, if finalized, this action is expected to have a neutral to positive impact on the air quality of San Diego County. 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 Executive Order 12898, to achieve environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 8, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2023–27513 Filed 12–18–23; 8:45 am]

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FEDERAL REGISTER

Vol. 88 Tuesday,
No. 242 December 19, 2023

Part III

The President

Notice of December 18, 2023—Continuation of the National Emergency With Respect to Serious Human Rights Abuse and Corruption

Federal Register
Vol. 88, No. 242
Tuesday, December 19, 2023

Presidential Documents

Title 3—

The President

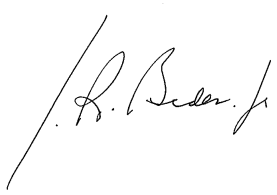
Notice of December 18, 2023

Continuation of the National Emergency With Respect to Serious Human Rights Abuse and Corruption

On December 20, 2017, by Executive Order 13818, the President declared a national emergency with respect to serious human rights abuse and corruption around the world and, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), took related steps to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

The prevalence and severity of human rights abuse and corruption that have their source, in whole or in substantial part, outside the United States, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on December 20, 2017, must continue in effect beyond December 20, 2023. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13818 with respect to serious human rights abuse and corruption.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
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[FR Doc. 2023–28106
Filed 12–18–23; 11:15 am]
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